United States Court of Appeals

for the

District of Columbia Circuit

TRANSCRIPT OF RECORD

UNITED STATES COURT OF APPEALS

FOR THE DISTRICT OF COLUMBIA CIRCUIT

United States Court of Appeals
For the
District of Columbia Circuit
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January Term 1957

No. 13,693

No. 124-56

CHARLES C. COLEMAN, ... APPELLANT,

vs.

THE UNITED STATES OF AMERICA, ... APPELLEE.

APPEAL FROM THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF COLUMBIA

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JOINT APPENDIX

IN THE UNITED STATES DISTRICT COURT (1)

FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA :
:
-vs- : Criminal Action 124-56
:
CHARLES C. COLEMAN, :
:
Defendant. : Washington, D. C.,
:
Thursday, June 14, 1956.

The above-entitled cause came on for trial before the HONORABLE RICHMOND B. KEECH, a District Court Judge, and a jury at 10:10 a.m.

APPEARANCES:

ARTHUR J. McLAUGHLIN, Esq., Assistant U. S. Attorney,

for the Government.

CARROLL F. TYLER, Esq.,
WILLIAM B. HARRIS, Esq., for the Defendant.

P R O C E E D I N G S (3)

THE COURT: Will counsel come to the bench a minute, please?

(At the bench:)

THE COURT: The clerk called to my attention that there are three indictments. Have you concluded as to which one you will proceed on?

MR. McLAUGHLIN: I am willing to go on them all.

THE COURT: Has there been a consolidation?

MR. McLAUGHLIN: No, there hasn't.

THE COURT: Is there any reason why there shouldn't be a consolidation?

MR. TYLER: I don't think so, sir.

THE COURT: Has there been any motion to consolidate?

MR. McLAUGHLIN: No, there hasn't, Your Honor. My friend suggested it to me the other day and I told him it was agreeable to me.

THE COURT: By that you mean counsel for the defendant?

MR. McLAUGHLIN: Yes, Your Honor.

THE COURT: Two of them are very close together, aren't they? What is your feeling?

MR. TYLER: I don't think so, sir. I suggested originally that there be a consolidation, but at that time there was a witness in Lancaster, (4)
South Carolina, with whom I had just talked to this morning, and after appraising the matter further, I think perhaps it is better that we not consolidate.

THE COURT: Then you are proceeding on 124-56?

MR. TYLER: Yes, sir. (1)

MR. McLAUGHLIN: Yes.

THE CLERK: United States v. Charles C. Coleman. (7)

THE COURT: Is the Government ready?

MR. McLAUGHLIN: Yes.

MR. TYLER: The defense is ready.

THE COURT: You may swear the jury, Mr. Clerk.

We intend to show you that after he was confronted with Miss (34) Hood, Miss Hood will not be able to postively identify the defendant, but will say that he fits the general description. We intend to show you (35) that he did admit robbing her, but at that time he denied ever having sexual relations with her.

MARY ALLEN HOOD (39)

was called as a witness by and on behalf of the Government, and after being duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. McLAUGHLIN:

Q Miss Hood, talk real loud so we all can hear you. What is your full name?

A Mary Allen Hood.

Q And where do you live?

A 1601 Oregon Place, Northwest.

Q On November 9, 1955, where did you live?

A 1400 Fairmount Street.

Q That is what section of the city?

A Well, it is right close to 14th Street, Northwest, Washington.

Q And on November 9, 1955, were you the owner of an automobile?

A Yes, sir. I still am. (40)

Q And on November 9, 1955, where did you park that automobile?

A I parked it in the Hilltop House Garage.

MR. HARRIS: The time, please?

MR. McLAUGHLIN: I will get to that.

BY MR. McLAUGHLIN:

Q Where?

A In the Hilltop House Garage.

Q And the Hilltop Garage was located where?

A Well, let's see. It is right across from the Dutch Embassy. (40) It is on Euclid Street, at the corner of 15th, I believe it would be, 15th and Euclid.

Q In what section of the city?

A Northwest.

Q And that is in Washington, D. C.?

A Yes, sir.

Q Prior to November 9, 1955, how long had you parked your automobile at that address?

A A matter of several months, I don't know just how many, but it was four or five.

Q And how did you get into that garage from the street?

A I had to drive up Euclid Street. Generally, I entered by way of 15th, up Euclid, turned to the left, went up sort of an alley, swung to my (41) left, down kind of a dip, and entered the garage.

Q Calling your attention to November 9, 1955, did you have an occasion to park your automobile in that garage?

A Yes, I parked it that night.

Q And this garage that you parked it in that night -- what is the name of it again?

A It is the Hilltop House.

Q The Hilltop House?

A Yes, sir.

Q And what time would say you parked your car in there on the night of November 9, 1955?

A I believe it was between 10:20 and 10:30, it was about that time, approximately.

Q Now tell us, if you will, just how you parked your car in there on the night of November 9th and what happened, if anything.

A Well, I drove in as usual and swung into my parking place. They were all numbered at particular section, and I had to back into the parking place, which means that you drive forward there: it is very hard to park there, and it swings so. There has been a little trouble in that garage --

Q No, no. Just tell us how you parked your car that night. (42)

A Well, I drove in, went forward and then swung backwards and parked my car against the wall.

Q Were there other cars in there that night?

A Oh, yes, sir, there were a lot of cars. It is an open garage. (42)

Q What was the lighting condition there on November 9, 1955?

A There were lights. There were lights. They were dim, but there were lights there. It was a lighted garage.

Q All right, just tell us, after you parked your car, what did you do or what happened?

A Well, I locked the doors of the car, because the children have been playing in the cars.

Q All right, you just locked the doors of the car.

A Yes.

Q And after you locked the doors of the car, then what happened?

A Well, I put the car keys in the pocket of my coat.

Q How were you dressed that night?

A I had on a blue suit, with a pin stripe. I had on red shoes, and I had on an English trench coat, a light tan one.

Q Go ahead. (43)

A And I put my hands in my pocket, because I was putting my keys in my pocket and also my gloves. And I turned to walk away from my car. The lobby is on about the same elevation as the garage. I headed around to the lobby entrance, and at that moment, two hands came around my throat from the back. I didn't think it was possible.

Q Just tell us what happened.

A They closed around my throat, and a voice said, "If you scream, I will kill you," or something to that effect. I just heard, "If you scream," and I began to scream, I thought of it, and they closed off my wind. I remember my head going back, and it felt as though my eyes were out on sticks, and I just blacked out.

Q All right, and what is the next thing that you remember?

A I was in a dark place facing the wall and I was down on my knees.

Q How did you get in that position, can you tell us?

A I seemed to have been shoved around in that position. It seems I even had lucid moments of being pulled around to that position, someone saying, "Kneel down and face the wall." And I knelt down and faced the wall.

Q At the time those things were said to you, could you feel (44) anyone's hand on your body?

A Around my throat and then in my back. I don't know when he released me.

Q All right, now you say you fell, you were facing the wall. (44) Go ahead.

A Yes, I am facing the wall. I am down on my knees facing the wall, and he said, "Close your eyes." So my eyes were closed. I still had my hands in my pocket, and he said, "How much money do you have?" And he said, "I'll shoot you right between the eyes," and I believed him.

Q Just tell us what he said, ma'am.

A So I tried to pull my wallet out. He says, "Where is your wallet?" This happened a long time ago, so I am having --

Q Just your best recollection.

A So I pulled the wallet out, and he said, "What pocket is the wallet in?" I think I told him, and I pulled the wallet out. He said, "Hold it up." So I held it up, and he said, "How much is in it?" And I said, "About four dollars." And he said, "Why isn't there more?" And I told him I had been downtown to dinner. So he looked through the wallet, and he said he would take my word for it, and he took the four dollars out. And I asked for my wallet back, and he gave it to me. And I realized I didn't have one of my shoes, so I asked him about my shoe, and he said he would get it. And I think I said something to him about asking him why he was doing (45) this, and he said he had to get his rent. Then he kind of leaned over, and I thought the whole thing was over, and he said he was going to assault me. He didn't use those words.

Q Give us the exact words, if you can, madam, as near as you can recall.

A I can't remember the words, because they weren't the words I am used to, but he said "I wants the" quote and unquote. He used the phrase -- it is some words I have seen on the sidewalks some place. I wasn't sure of what he meant. But I think he said, "I want to get me some frump," or something like that. It was a strange term. I don't know the word. I thought at first -- I said, "Well, I thought you said you would let me go." And he said, "No, I am going to get me some," whatever this terminology is. And then he grabbed me and threw me over, and I have a bad back --

Q What did he say -- what did you say, if anything, to him at that time, can you recall?

A Yes. There was a little conversation there. He said, "How old are you?" And I said, "I am forty-five. I am too old for that type of thing." But I was pretty sure by that time --

Q No, what did he say when you said that? (45)

A I don't remember what he said, but he pushed me over and he said he was going to shoot me right between the eyes again. He said he had (46) already killed one woman, he wouldn't mind killing me. And then somehow -- and I guess I was too upset, because I don't know how he got me over, but he shoved me over against something on the floor, telling me all the while to keep my eyes closed, and I did keep my eyes closed, but I also -- as I say, I have a bad back, and the pain of hitting this thing, whatever it was I went over on the floor, knocked me out. I blacked out, and I have tried to remember what happened at that time, and every time I try to remember it, I get his hands around my throat again, and I can't remember. But there was a period of time that passed -- oh, yes, there is one other thing. Somehow, during all of this, I managed to get my hands in his hair and I recognized the texture of the hair, so I knew, I had some idea --

MR. TYLER: Will you talk a little louder, please?

THE WITNESS: I am sorry, I guess I am not very loud at this kind of thing.

I got my hands in his hair somehow in doing this, trying to seek an identify, and at that time I sort of thought I knew, but I wasn't sure. I just plain wasn't sure who or what I was facing. My eyes were closed the whole time, and I was half conscious the first time or unconscious the second time, when he threw me over this thing, whatever it was, or how he got me in the position, I don't know how it was. Apparently I went out like a (47) light, because, as I say, I do have a bad back and any twist or turn, no matter how moderate, will do that.

BY MR. McLAUGHLIN:

Q All right, you blacked out. Did you come to after that?

A I blacked out, but I seemed to come up at one point somehow in this thing, and I looked up and I saw his silhouette as he turned. He was turned. He was up over me and he was turned, and I could just catch a silhouette of him, and I heard him say, "What did I tell you?" And then something hit me against the head and the face, and that was all I knew again for a time.

Q Did you come to again?

A Yes, I did.

Q All right, when you came to again, what did you observe or what did you hear?

A I opened my eyes and everything was black and dark, and I hadn't the slightest idea of where I was or where he was or where anything was, and

I was lying on the floor, I suppose you would call it, and I was (47)
pretty well crumpled up. I couldn't tell the condition of my clothes or anything. I started to move.

MR. TYLER: I am sorry, I can't hear you again.

THE WITNESS: I said, I was lying on the floor and I was lying on (48)
my back, and I was sort of crumpled over in the corner, and I didn't know where he was or where anything was or where anybody was, and I started to move, and I head his voice again saying, "What did I tell you? I'll shoot you between the eyes. What did I tell you?' And then he said, "I got to dust my pants off," and I listened and I didn't hear him dusting any pants off. I kind of expected a sound.

BY MR. McLAUGHLIN:

Q Just what he said, madam.

A Yes. So I waited what I thought would be a safe time. He said, "You wait and don't you tell nobody about this." He said, "You wait and I'll go." So I waited what I thought was a safe time, and then I got up, and I found then where I was for the first time. I was under the stair well there at the Hilltop House Garage, a little, tiny dark space, and I looked around and I looked at my clothes, and I seemed to be all right. I guess I wasn't in very good shape, but I looked all right to myself. So I started around again to the lobby. I didn't know whether to go or stay, and I passed the lobby entrance and looked in, and there was quite a crowd of people in there, and I was afraid to go in, for I still didn't know who done it. I didn't have any money to call a cab and I didn't have any money to call the police, so I walked home.

Q How far was your home from the Hilltop address? (49)

A Let's see, now. It would be about two blocks, maybe two and a half, maybe counting the little half blocks, because you turn the corners.

Q What time would you say you arrived home at your apartment?

A Well, I guess between a quarter of 11:00 and 11:00. I wasn't very able to look at the time.

Q That was on the night of November 9, '55?

A Yes, sir.

Q All right, when you got home to your apartment, what did you do?

MR. HARRIS: Pardon me, did she say a quarter to 11:00?

THE WITNESS: Approximately. I don't want to be definite about it, because I didn't look at the time.

THE COURT: I thought she said a quarter to 11:00 or 11:00 o'clock. (49)

THE WITNESS: Yes, sir.

BY MR. McLAUGHLIN:

Q All right, when you arrived back to your apartment, what did you do?

A Well, the first thing I did was try to see if I could breathe. I couldn't breathe. I couldn't get my breath. My eyes were all crossed out and my throat was swelling. I couldn't talk. I couldn't say anything, (50) and my mother came out.

Q Did you talk to your mother?

A Yes.

Q Not what you said to your mother. Did you have an occasion at that time to observe your general appearance?

A No, I don't think I did. I just went to get water and tried to open my throat so I could talk, because I couldn't talk. I could see I couldn't talk, so I went and got water, then I went and got a class of wine and drank that. Then I drank a lot of water, and when I could get my throat clear enough, I tried to tell my mother.

Q Did you have occasion to examine your body at the time when you got home?

A Well, it was about, I guess, ten or fifteen minutes, maybe more, before I could talk and see and got quieted down enough. I had locked every door in the place to try to think, and then I realized that I wasn't feeling quite well, so I went to the bathroom to examine my body, and there I found that I was bleeding badly.

Q All right, and from what part of your body were you bleeding?

A From the sexual portion, from the genital portion in general, and it was the time when my menstrual period was due, so I thought well, maybe he didn't assault me, maybe this is my menstrual period from shock. (51) So I called my doctor.

Q And your doctor's name was what?

A Dr. Grace Purse.

Q Did you talk to your doctor?

A Yes, sir.

Q Did you make a complaint to her at that time?

A I told her that I had been --

Q Did you make a complaint to her at that time, madam, to Dr. Purse, yes or no?

A Yes, I did.

Q Then, as a result of that, did the doctor make an appointment (51) with you?

A Yes, she did.

Q All right, when did you see the doctor?

A The next day at about 11:00 o'clock, approximately.

Q Where did you see the doctor?

A In her office.

Q And the doctor's name was what?

A Dr. Grace Purse.

Q When you went to see Dr. Purse the following morning, what was your condition at that time?

A Well, during the night, I had been bleeding much more than any menstrual period had ever brought to me.

Q And bleeding from where?

A From the sexual portions of my body, very badly, and I was in (52) pain. The pain had grown towards morning. By 8:00 or 9:00 in the morning, I was in severe pain. I guess I hadn't noticed it before, and it grew at the time.

Q And that pain was coming from where?

A It was from around the genital portions, severe pain.

Q Now, on the following morning you saw Dr. Purse at her office. What was your condition at that time that you went to her?

A All of it or that part?

Q That part.

A That part, I had sort of stopped haemorrhaging somewhat, but it was still mildly more than a menstrual period would call for. My throat was still swollen, with big finger marks all around, black and blue. My head and neck were stiff from here right on down (indicating), and my upper arms were very sore. I could hardly raise them. My back was black and blue from the shoulders almost down to the hips and -- I don't know, I guess I was just numb, I didn't know what hurt worse.

Q Did the doctor first make an examination of you at that time?

A Yes, sir, she did.

Q As a result of the examination made by Dr. Purse, did you see (53) any other doctors?

A Yes, sir. I saw Dr. Gerber.

Q All right, and when did you see Dr. Gerber?

A I was admitted to the hospital from Dr. Purse's office, (53)
I suppose, about two hours after I saw Dr. Purse, I am not sure now, but approximately.

Q When were you admitted to the hospital, do you recall?

A No, I don't. It was a matter of an hour or so.

Q I meant the day, that same day?

A That same day, I was taken right to the hospital.

Q What hospital were you taken to?

A Doctors Hospital.

Q At Doctors Hospital, did you see Dr. Gerber?

A Yes, sir.

Q And how long did you remain at the hospital?

A About nine days.

Q Now, Miss Hood, prior to going in that basement, the parking basement, that night on November 9, 1955, were you a virgin?

A Yes.

Q When did you see the police for the first time in reference to what happened on November 9, 1955 in that basement?

A The night of November 9th? I saw them then.

Q You saw the police at that time? (54)

A Sir, sir.

Q Did you make a complaint to them then: just yes or no?

A Not a complete complaint. Yes.

Q Now, after you had come out of the hospital after nine days, did there come a time when the police brought you down to Police Headquarters?

A Yes.

Q Do you recall what date that was?

A No, sir, I don't, but it was the day after I left -- yes, the day after I left the hospital.

Q And then do you recall the police bringing you down to Police Headquarters for a lineup?

A Yes, sir.

Q And do you recall when that was, Miss Hood?

A No, sir, I don't, but it was five months ago, six months ago.

Q Do you recall what month it was in?

A No, I don't. Spring was about to break, but that is all I recall.

Q Do you recall what day of the week it was?

A Sunday. (54)

Q Sunday?

A Yes, sir.

Q What time did the police get in touch with you on that Sunday? (55)

A I was in the country. I believe about 2:00 o'clock they sent the man down and I drove right up.

Q You say you were in the country. Where were you?

A I was down in Nanjemoy, Maryland, at Dr. Purse's place.

Q That is how far from the District of Columbia, approximately?

A About 45 miles.

Q What time did you arrive at Police Headquarters on that Sunday?

A I guess around 4:00 or 5:00. Now I am not too sure, but it was around that time.

Q And when you arrived at headquarters, did you view a lineup?

A Yes, sir.

Q And how many men were in the lineup?

A Oh, I suppose about eight or nine -- eight, perhaps eight or nine. It was more than five, anyhow, eight or nine.

Q And in that lineup did you see the man who assaulted you on November 9, 1955?

A Yes, sir, I did. I heard the man who assaulted me. (56)

Q How?

A I heard the man.

Q What do you mean, you heard him?

A I identified him by his voice.

Q All right, did the man talk to you at that time at Police Headquarters?

A Yes, sir, he did.

Q What did he say to you?

A Well, he finally said he was the man who --

Q No, no. We'll get to that later, ma'am. I meant, at the time that you saw the five men in the lineup, did you view that lineup?

A Yes, sir.

Q Were you able to identify anyone in that lineup?

A Yes, sir, I identified this man.

Q How?

A I identified this man.

Q You identified who? (56)

A Charles Coleman.

Q Do you see the man in court here today?

A Yes, sir.

Q Will you point at him, please?

(The witness pointing.)

MR. McLAUGHLIN: May the record show she points to the defendant? (57)

THE COURT: Yes, sir.

BY MR. McLAUGHLIN:

Q In that lineup at that time, just tell us how you identified him.

A He read.

Q Who read?

A Charles Coleman recited some of the material that --

Q No, I meant while in the lineup, when you saw him in the lineup.

A That is right, while in the lineup. Every man in the lineup repeated some of the things that Coleman had said to me that night, and when they got to Mr. Coleman, he held his voice very high the first two or three lines.

MR. TYLER: I am sorry, I can't hear you.

THE WITNESS: When they got to Mr. Coleman, as he was repeating what was said to me that night --

MR. TYLER: I am going to have to object to that, and as to the part as to whom she is referring to, because we haven't identified the party in the garage.

THE COURT: The person you are identifying is whom?

THE WITNESS: The man who assaulted me, sir.

THE COURT: Is that the person you identified here in the courtroom? (58)

THE WITNESS: Yes, sir.

THE COURT: All right.

THE WITNESS: He repeated in the lineup what he said to me that night, and about the second or third --

MR. TYLER: Let me enter an objection here. My objection goes to the last statement, what he said to her that hight. That hasn't been established yet, what the witness just said, "what he said to me that night." She is referring to what was repeated in the lineup. She stated he said what he said to me that night.

MR. McLAUGHLIN: All right, we'll clear that up.

BY MR. McLAUGHLIN: (58)

Q What did the defendant actually say to you at the lineup?

A He said: "How much money do you have? Why don't you have more money? I'll take your word for it. I'm doing this for my rent." He probably said other things, too, but --

Q No, just what you recall, madam.

A That is what I recall. I don't remember what else he said, but he said that much.

Q Did you at the lineup at that time see him after that lineup? (59)

A Yes, sir.

Q When and where did you see him after the lineup?

A I think it was in Lieutenant Sullivan's office.

Q That was how long, would you say, after the lineup?

A Oh, just a matter of minutes.

Q And did you talk to him at that time?

A Yes, sir.

Q To the defendant?

A Yes, sir.

Q What did you say to the defendant and what did the defendant say to you at that time?

A He said that he had taken my four dollars.

Q The first time you saw him after he was brought out of the lineup --

A He said no, he wasn't the man, he didn't do it.

Q --where were you at that time?

A I was in Lieutenant Sullivan's office.

Q And that was how long after you had seen him in the lineup?

A Oh, I guess around 10 minutes maybe.

Q Now, after he said that he wasn't the man, then did you see him again?

A Yes, sir.

Q And that was how long after that conversation, where he (60) said he wasn't the man?

A Probably around five, ten minutes again. It was a matter of minutes.

Q Where did you see him at that time?

A In the same place, Lieutenant Sullivan's office.

Q Was there anyone with you at that time?

A Yes, sir.

Q Who was with you? (60)

A There were two or three people in the place there. Sergeant Yuter was there and Dr. Grace Purse was there. I don't know whether she was directly behind me or not, but she was with me, and there were two or three other officers, who I don't know the names of.

Q Now, what conversation, what talk, did you have with the defendant at that time and what did the defendant say to you, as near as you can recall; give us the substance of it?

A He said he had been the man who took my four dollars, I asked him where he had been when I drove into the garage. He said he had been hiding in the washroom.

MR. TILER: I am sorry, I didn't hear that.

THE WITNESS: He said he had been hiding in the washroom as I drove into the garage. He described my car. He described what I had done, and he said that he had been attracted -- he hadn't been waiting for me. He had (61) seen my car pass and had followed the car in. I understood from him that if he had gotten my four dollars, or gotten whatever money I had, that he would not harm me, and he said he had kept his word, he had not harmed me. I said I had spent quite a bit of time in the hospital, and he said that he was sorry, he had not harmed me, and he wanted to shake hands and apologize. And he said I had fallen on a tack.

BY MR. McLAUGHLIN:

Q Fallen on what?

A On a tack. That is how I spent a couple weeks or nine days in the hospital. And he pulled up his trouser leg and showed me some little holes in his trouser leg where he had fallen on a tack or had knelt on a tack or had something to do with a tack while he was waiting for me.

Q That was on the night of November 9th?

A Yes, I am talking about the night of November 9th, but this is a conversation in Lieutenant Sullivan's office. He again apologized and said he had not harmed me, he had only taken my money, and that was the end of my conversation with him, more or less.

Q Now, Miss Hood, on November 9th, or a short time prior to November 9th, had you done anything to yourself which would necessarily tear or rupture your hymen?

A No.

Q As far as you know, when you went in that basement on (62)
November 9th, your hymen was intact?

A Right.

Q Now, all that you have testified to happened within the District of Columbia; is that right?

A Yes, sir.

(Government Exhibit Q-1 was marked for identification.)

BY MR. McLAUGHLIN:

Q I will show what is marked as Government Exhibit Q-1 for identification, Miss Hood, and ask you if you can identify that?

A Yes, sir.

Q And you identify Government Exhibit marked for identification Q-1 as what?

A The underwear I wore that hight.

Q And when you say the night, you mean the night of November 9, 1955; is that right?

A Yes, sir.

Q And the night that you were assaulted in the Hilltop Garage?

A Yes, sir.

Q Are they in the same condition today as they were when you had them on and entered that garage on November 9, 1955?

A Well, no, sir, they are not. (63)

Q What is the difference in their condition?

A Well, they are torn up.

Q And were they torn as a result of the assault made upon you on the night of November 9th?

A They are a little tiny bit more torn than when I took them off.

Q Were they torn prior to going into the garage on November 9th?

A No, sir. They were torn when I took them off. They are a little more torn now.

(Government Exhibit Q-3 was marked for identification.)

BY MR. McLAUGHLIN:

Q I will show you Government Exhibit marked for identification Q-3, Miss Hood, and ask you if you can identify that?

A Yes, sir. That is the skirt that I wore that night.

Q The skirt that you wore what night?

A November 9th, sir.

Q At the time you were assaulted in that basement in the (63) Hilltop Garage?

A Yes, sir.

Q In addition to that skirt that I showed you, Government (64) Exhibit marked for identification Q-3, were you wearing any other garment?

A I was wearing a light trench coat.

Q No, I meant in reference to that skirt, were you wearing the coat to that skirt?

A I was wearing the coat, sir.

Q At the time?

A Yes, sir.

Q Was that coat turned over to the police?

A Yes, sir, and they returned it to me.

Q In other words, that coat is in your possession; is that right?

A Yes, sir.

(Government Exhibit Q-4 was marked for identification.)

BY MR. McLAUGHLIN:

Q Showing you Government Exhibit marked for identification Q-4 --

THE CLERK: 2.

BY MR. McLAUGHLIN:

Q -- Q-2, rather, I ask you if you can identify that?

A Yes, sir. This is the coat I wore on the night of November 9th.

MR. McLAUGHLIN: No, that is Q-4.

THE COURT: Now, have we got it marked 4, sir? Let's make sure. (65)

MR. McLAUGHLIN: This is 4.

THE COURT: The coat is Q-4. Do you understand that, counsel?

MR. TYLER: Yes, the coat is Q-2.

THE CLERK: Government Exhibit Q-4 for identification.

BY MR. McLAUGHLIN:

Q Showing you Government Exhibit marked for identification Q-4, Miss Hood, I ask you if you can identify that?

A Yes, sir. This is the coat I wore the night of November 9th.

Q The night of November 9, 1955?

A Yes, sir.

Q Now, in reference to Government Exhibit Q-1, in regard to the exhibits that I have shown you, did you have them on the night you were assaulted, the night of November 9, 1955?

A Yes, sir, I did. I had them on. (65)

Q So far as you know, Miss Hood, was there any occasion for these clothes, to your knowledge, having spermatozoa on them?

A I beg your pardon?

Q I say, as far as you know, is there any occasion for any of (66) these garments that you have just identified to have any sperm, spermatozoa, as they call them?

A No, no. They were in excellent shape when I had them on, when I started with them.

MR. McLAUGHLIN: I believe that is all I have of this witness, Your Honor.

THE COURT: All right, sir.

CROSS EXAMINATION

BY MR. TYLER:

Q Now, Mrs. Hood --

A Miss Hood, sir.

Q Miss Hood, I am sorry.

--did I understand you to state that there were other cars in the garage at the time you went in there?

A Yes.

Q Your car, I believe you stated, was parked against the wall?

A That is right.

Q Where were you with relation to the other cars at the time you felt the hands around your neck?

A You need a diagram of the garage. I had passed my car.

Q Would this board help us?

A It might.

Q Could you use the board there? Would you like to come over (67) here, please?

THE COURT: Mr. Tyler, might I suggest this to you. Could you fix it by some given point -- maybe that would help us -- by location, I mean if we can? Sometimes maps are very difficult for people to understand. If you have some fixed object in mind, maybe that would be helpful to you.

MR. TYLER: All right.

BY MR. TYLER:

Q I will repeat my question. The question was, where were you with relation to the other cars at the time you felt the hands around your neck?

Now, perhaps an explanation would assist you.

Were you standing between two cars at the time you felt the (67)
hands around your neck?

A No, because the garage, is not laid out that way.

Q Let me ask you this. How do the cars park in relation to each other in this particular garage? Are they parallel to each other or do they park one behind the other?

A No, they park side by side.

Q They park side by side. So that, then, would I be correct, for purposes of explanation here, to say that other cars were parked beside your car?

A Two would be parked beside my car but the others were not.

Q The others were not. Now, where were they in relation to (68)
your car?

A They were on the other side of the garage.

Q When you say the other side, do I understand you to mean now that there is a partition between these cars and the other cars?

A No. Shall I explain the layout? It might help.

Q Yes, please.

A As you enter from the left, there are about, let us say, roughly, 1, 2, 3, 4 available spaces for the purpose of parking, roughly.

Q They are parallel, aren't they?

A Yes. As you come down this way (indicating), and you park side by side. Now then, beyond that there is an entry way to the main lobby, also an elevator shaft. Here is the elevator shaft (indicating) and here are the four cars (indicating). So then you go around so (indicating), and the cars are all parked over against the far wall on the other side. It is rather odd, I know. So it will be impossible for me to be between two cars. Mine is the last car next to the elevator shaft. There is no car on the other side of me, there was not on that night.

Q This area which you were in, was it a fairly open area? The garage wasn't packed or cluttered with cars, was it, at that particular time?

A Oh, it was reasonably full. I don't believe all the cars (69)
were in.

Q How many cars were in the garage on this particular side when you were parked, when you pulled in there?

A I think that there were two in besides mine, I am not sure.

Q Two besides yours,

A There were more than that in the garage, Mr. Tyler.

Q We'll leave that for a moment and come back to that later (70) and perhaps clear ourselves of another point. Let's go to the lineup for a moment, if I may. At the time you were at the lineup, did you make a statement or did you not make a statement, if you recall, to the members of the Metropolitan Police Department to the effect that you could not (71) identify, positively identify any of the men at the lineup; isn't that true?

A I said I was not absolutely sure, but I thought that was the man.

Q You were not absolutely sure?

A That is right.

Q I am also correct, then, am I not, in saying that the identification, to the extent that you made an identification at all, was based solely upon a voice?

A Right, at that time.

Q Yes. Well, did you later make any other identification?

A Yes.

Q When was that?

A In Lieutenant Sullivan's office.

BY MR. TYLER:

Q Now, there did come a time, you were about to state, when you (72) did see this defendant again; is that correct?

A Yes.

Q Approximately how long was that from the time when you first saw this defendant or heard this defendant in the lineup?

A Oh, I think I said before about five or ten minutes, roughly.

Q About five or ten minutes, roughly?

(73)

A Roughly. I am not sure now. It was a matter of minutes. (73)

Q In the interim of time which elapsed between the time when you first saw this defendant at the lineup, when you could not identify him, and the time when you saw him in the lieutenant's office, when I believe you stated you again identified him --

THE COURT: Excuse me, you mean other than by voice?

MR. TYLER: Well, I am only going to the extent that she has given an an answer. I will give that later.

THE WITNESS: I didn't say that. I said I identified him, with reservations, by voice. I didn't say I didn't identify him.

BY MR. TYLER:

Q All right, you identified, with reservations, by voice.

A That is right.

Q Let's go to the second identification. How did you identify him the second time?

A Well, by the second time, he had let his voice drop to its normal pitch. I sat down in front of him and I started to talk to him. He stopped holding his voice at a very high pitch, as he had on his first two sentences in the police lineup, before he got tired and dropped some there. His (74) voice dropped down to its normal pitch, and I identified him.

Q So you would still identify him by voice; is that right?

A Right.

Q So that at no time, Miss Hood, did you identify this defendant by virtue of sight as having been around or the person who attacked you on that evening in question?

A No.

Q As a matter of fact, you don't know who attacked you, do you?

A Yes, I know who attacked me.

Q You don't know by having seen him, do you?

A No.

Q You state you know now by virtue of, am I correct, belief as to voice?

A Memory of voice.

Q Memory of voice?

A Right.

Q Let me ask you this, Miss Hood. At the lineup, did all of these people, the gentlemen at the lineup, read the same thing?

A They did.

Q What they read, was that allegedly what you had given to (74)
the police as the words that had been spoken to you?

A Yes. I don't remember exactly what I gave them, but I (75)
remember I gave them as much as I could remember what had been said to me.

Q How much interval lapsed between the time when each of these men at the lineup spoke? Do you understand my question?

A I understand your question, but I can't tell you exactly. I didn't have a stop watch.

Q Roughly, if you know, just estimate it.

A Oh, it was almost one, and then someone would say something two, and then someone would say something. It was in normal sequence.

Q May I ask how or by what manner you are able to arrive at a (76)
yes answer, if you can answer that question?

A By my excessive bleeding all during the night and the next morning and the pain that I felt.

Q I am afraid, Miss Hood, that you didn't understand my question. I will put it this way. Did you see anyone attacking you that night in the garage?

A No.

Q Did you feel anyone attacking you in the garage?

A No.

Q Would I be correct, then, that the only present recollection you have as to being attacked or showing that you were attacked is the fact you were bleeding excessively: is that correct?

A No. The fact that I was threatened with rape. (77)

Q I beg pardon?

A The fact that I was threatened with rape, the fact that the same voice was there when I recovered that was there that threatened me with rape.

Q Let me ask you this, Miss Hood. You don't know as a matter of fact that the voice you heard actually, the party to whom that voice belonged, raped you or not, do you?

A Yes.

Q Is that based upon actual sight of having seen this person rape you?

A It is based upon the person saying that he was the man who said he was going to rape me.

Q No, I am asking this, Miss Hood. Let me see if I can make my question clear. Of your own personal observations on the night this unfortunate

incident took place, based upon actually what happened that night, (77) just upon what happened that night, isn't it a fact, Miss Hood, that you actually don't know -- apart from what happened subsequently -- you don't know actually, as a matter of fact, whether that voice or the party to whom that voice belonged attacked you or not, based upon actually the events of that night?

A It is not a fact. I do know.

Q Well, now, let's put it this way. Is it not a fact that in saying that you do know, that your answer is an accumulation of events which (78) transpired after this evening?

A No, it is not.

Q On this particular evening in question, when did you arrive at a conclusion that you had been raped?

A I didn't arrive at it that evening.

Q You did not arrive at it that evening?

A I did not arrive at it that evening. I suspected it that evening.

Q As a matter of fact, you didn't know whether you had been raped that evening; isn't that true?

A Not that evening, I wasn't sure.

Q So, therefore, this voice, that which you are mentioned at this time, that evening -- you do not know, as a matter of fact, whether that voice had raped you or not?

A That evening I did not know.

Q That evening?

A That evening.

Q You did not know?

A That evening.

Q That is right.

A Okay.

Q The fact that you have identified him as having been the party who did that is based upon an accumulation of matters which took place at Police Headquarters; isn't that true?

A No. I know that evening that he had injured me. I knew that (79) evening that he had injured me in my sexual parts. I did not know in what category it would fall.

Q Well now, did I understand you on direct examination -- of course, I am not going to embarrass you, but you understand, of course, the seriousness of this charge?

A Sure, I do. (79)

Q Didn't I understand you on direct examination to say that when you were undressing at sometime that evening, that you noticed blood?

A It was not sometime that evening. It was around 15 or 20 minutes after I was able to get my bearings and talk and breathe that I realized that I was bleeding.

Q And prior to that time, you were not aware of any particular injury to you isn't that true?

A I was aware, but I was not sure of the extent.

Q You were not sure of the extent?

A At no point during that evening was I sure of the extent.

Q Nor were you sure of the cause?

A Yes, I was sure -- wait. I was sure that he had injured me. I was not sure to what extent he had injured me.

Q Didn't I understand you to say a moment ago that you suspected it?

A I suspected it because he said he was going to.

Q Didn't I understand you, Miss Hood, to say on direct exama- (80) tion that you didn't know whether the bleeding was from your menstrual period or not; wasn't that true?

A When I phoned my doctor, I didn't know.

Q Beg your pardon?

A When I phoned my doctor, I did not know.

Q You did not know?

A No.

Q So prior to the time when you called your physician, as a matter of fact, you didn't know whether your bleeding was because of your menstrual bleeding or not?

A No, I didn't know whether the bleeding was because of my menstrual period brought about my injury from him or not. They are not the same thing.

Q Well, now, let me ask you this --

A Not on the matter of injury again. He might have thrown me so hard that he had injured my back to bring around that type of shock. He was directly involved in my condition.

Q Beg pardon?

A He was involved in my condition, whatever it was.

Q That statement you have just made there, based upon your prior testimony on the evening of which we are talking about, is a conclusion; is that not a fact?

A I reached no conclusions that evening. (81)

Q Well, there was a suspicion?

A There was a strong suspicion. There was more than suspicion. I knew I was hurt and hurt badly, I didn't know to what extent.

Q Now, I believe you stated that at a time, you did pass out for a period of time.

A A couple times.

Q A couple of times you passed out?

A Yes, I think.

Q Would I be correct in saying that during the period of time in which you were unconscious, that you wouldn't know whether this defendant or three or four, or what have you, other parties may have attacked you; isn't that true?

A That is true, only he was there when I came to.

Q Let me ask you this. The last time you recovered consciousness prior to entering the building, did I understand you to state there was no one there at the time you recovered, the last time?

A No, you didn't understand that.

Q All right.

A You may have understood it, but I didn't say it.

Q All right, so then I didn't understand it.

A No, you didn't understand it.

Q What was the last thing, if you recall, that took place (82) prior to the time you went into the building?

A I suppose I turned my directional signal on and swung my car to the left.

Q No, I beg your pardon. I am speaking about after the attack had taken place.

A Went into which building?

Q After this incident had taken place.

A Went into which building?

Q Didn't I understand you to say on direct examination that after this event took place, you went into the lobby; you started to hesitate and then you went into the lobby?

A I didn't go to the lobby; I was afraid to.

Q Where did you go after this event took place.

A I went home.

Q You went home? (82)

A Yes.

Q In going home, did you retrace your steps outside the garage?

A No, I didn't go around that way. He might have been there.

Q Which way did you go?

A Around the front.

Q Did you have to go through the building?

A You drive in one way; you walk out the other that is, you can (83) walk out the other.

Q Did you go through the building?

A No, I didn't go through the building, I wouldn't have dared.

MR. TYLER: Excuse me, your indulgence, Your Honor.

THE COURT: Yes, sir.

BY MR. TYLER:

Q Now, Miss Hood, let me ask you this. Why were you afraid to go into the lobby?

A Because I had not seen the man who attacked me, and I wasn't so sure he wasn't standing there in the lobby.

Q So that if there were a dozen men standing there, you wouldn't know which of the dozen was the one who attacked you?

A No, I wouldn't.

Q I beg your pardon?

A No, I would not have. And there were a lot of people in the lobby. I didn't know where he was. I knew he was somewhere.

Q But he could have been anywhere. If he were next to you, you wouldn't have known it?

A That is right. I wouldn't have known it unless he spoke.

Q Let me ask you this. When was the first contact you had with (84) members of the Metropolitan Police Department?

A After I got home. I don't know what time it was. I called the police. I called the doctor first, then I called the police.

Q Could you give us a rough approximation of the time?

A No, I couldn't, I have no sense of time from that time on.

Q Was it aftermidnight, if you know?

A It was somewhere near there. I don't know when it was.

Q So that, I take it, from that time to the time you gave your statement of this event taking place, between 10:20 and 10:30, would be about a half hour afterward?

A I don't think it was that long now, but you can establish (84) that with them, I am sure.

Q When you called the police, what did you say to them?

A I told them I had been robbed and that I had been threatened with being killed.

Q All right, go ahead.

A That is it. That is what I told them.

Q You told them you had been robbed and threatened with being (85) killed?

A That is right.

Q Is that the entire substance of your conversation with them?

A My first conversation.

Q And, of course, pursuant to that information, what did the members of the Metropolitan Police Department, if anything, say to you?

A They came up to see me.

Q When they arrived there, what, if anything, if you recall, did you tell them had taken place?

A Oh, I told them I had been told by a man he had killed one woman already, he was going to shoot me between the eyes, he had robbed me and that he had choked me, and they were pretty mad because I hadn't told them before, and then they called a detective. He came later. At that time I didn't tell them anything further because my mother was present, and I didn't want to get her excited or upset. I hoped to be able to see the detective alone. I was not able to see the detective alone. I was not absolutely positive at the time of just how much he had damaged me, and I wanted to see my doctor before I said anything.

Q You wanted to see your doctor before you said that?

A That is right.

Q Why? (86)

A I did. Because I didn't know to what extent he had damaged me. I don't like going around making loose charges.

Q Prior to the time you saw your doctor, you didn't actually know what was wrong with you?

A I knew something was wrong; I didn't know how much.

Q Or what?

A I knew that something was wrong where it had no business being wrong, but I didn't know how far or what or to what extent. (86)

Q Prior to the time you saw your physician, did you actually examine yourself to determine or attempt to determine from what specific part of your body you were bleeding?

A No. I knew from what part of my body I was bleeding. I didn't need to examine myself.

Q How long did you continue to bleed?

A I was still bleeding when I went to the doctor's office the next day, in varying degrees, in various intensity.

Q And you were at the hospital for a period of nine days?

A I think, more or less; I don't know exactly. You can establish that, I am sure.

Q During the period of this nine days which followed, I believe, (87) immediately after you went to see your physician --

A That is right.

Q -- did your menstrual period begin, if you know?

A No, I believe the surgeon told me that it began a few days later. Now I don't want to get involved in medical things, because, as I say, I went to doctors because there is much that I don't understand.

Q So would I be correct in saying, then, that you don't know what time your period would have begin in relation, rather, to the bleeding which had preceded because of this incident?

A Say that again?

Q I will strike that question. I don't think it was too clear. Was there any time during the following ten days when any differentiation, if any, could be made, by virtue of time or a ceasing of the flow of blood, as to when the menstrual period began.

A I believe that is honestly a question for my doctor, not for me. I think there was a time, but it is not for me to say that.

Q Well, let me ask you this, then. At the time this took place -- and, of course, as I repeat to you, this is not for embarrassment -- were you wearing a sanitary pad?

A At the time it took place?

Q Yes. (88)

A No. All of my life I have been an extremely regular person.

Q Since you stated to me a moment ago that you left these (88)
matters to your doctor, these medical matters, how did you know or, rather, did you know as a matter of fact that your hymen was intact at the time this event took place?

A Which event?

Q This alleged attack.

A Yes, because I have always been a virgin. There was never any reason for it not to be intact, and because I have always performed regular.

Q Beg your pardon?

A I have always performed regularly each month and I have always been a virgin.

Q Do you ever ride horses?

A I used to ride them a long time ago.

Q Do you ever ride a bicycle?

A Not since I was a kid.

Q Do you dance?

A I haven't danced since I rode a horse a long time ago. My horse threw me, I guess it was 8, 9, 10 years ago.

Q You were thrown by a horse 8, 9, or 10 years ago?

A A long time ago, but that did not rupture my hymen. (89)

Q How do you know that?

A Well, I presume so. I have always flowed regularly each month.

Q Yes, but you don't know, as a matter of fact, whether any of these events ruptured your hymen?

A Oh, I had excellent medical attention at the time, and I believe you can take care of that with the doctors, too.

Q Getting back to the Police Department, I believe you stated (90)
that when they arrived there, you told them you had been robbed; is that correct?

A Right.

Q And threatened to be killed?

A Right.

Q And that was the entire substance of your complaint at that time?

A Yes, it was.

Q Did there come a time when you made a subsequent complaint?

A Yes, the next morning, in my doctor's office.

Q You made a subsequent complaint to members of the Metropolitan (90)
Police Department?

A I made a subsequent complaint -- my doctor made the complaint for me to the Police Department the next day. Now that night I talked to two groups of police. I don't know to which ones I said which things. I did not complain of rape that night to the Police Department, which is what you are after.

Q When was the next time that you made a complaint to the Police Department?

A About what?

Q About this incident. (91)

A About what part of it?

Q Beg your pardon?

A About what phase of it?

Q Any phase. When was the next time you saw the members of the Metropolitan Police Department?

A That night I think I saw two policemen in uniform and they called somebody else, and then I believe it was the Robbery Squad came up sometime later, because I know it was quite late, and then I tried to sleep but I wasn't able to. Then the next day I went to my doctor's office, and I gave her the card that had been given me by the detective of the Robbery Squad, and I told her to please act according to her best medical judgment, depending upon what my condition was. I suspect I could have been -- mind you, I wasn't sure to what extent he had damaged me. I knew I had been damaged. I suspect I could have been raped. So she called the police.

Q Were you there when this took place?

A I was in her examining room, on her table.

Q Following this particular event, when was the next time that you talked to the police regarding this matter?

A There in her office. They came up to the office.

Q And what did you say to them at that time?

A I told them as near as I could everything that just happened.

DR. GRACE G. PURSE (99)

was called as a witness by and on behalf of the Government, and after being duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. McLAUGHLIN:

Q Now, Doctor, your full name is what? (99)

A Grace G. Purse. P-u-r-s-e.

Q And you are a practicing doctor here in the District of Columbia, a medical doctor?

A I am.

Q And where is your office located?

A 1801 Eye, the Washington Medical Building.

Q And is that in the District of Columbia?

A The District of Columbia.

Q How long have you practiced medicine in Washington, D. C.?

A Twenty-five years.

Q Now, Doctor Purse, do you know a person by the name of Miss (100) Mary Allen Hood?

A Intimately.

Q Calling your attention to November 9, 1955, do you recall whether or not you saw or heard from her on that evening?

A I was with her. We had dinner together and then we went to some friends and spent the eveing there until 10:00 o'clock. I had parked my car downtown and we went in her car to our destination. At 10:00 o'clock, I remember exactly, we left, came back and picked up my car, which was near -- well, it was in front of Luigi's restaurant, and I went on home. I got home about half past 10:00 and went immediately to bed.

Q Now, after you got home that evening of November 9th, did you hear from Miss Hood?

A About 11:00 o'clock, -- because I was going over this.

Q 11:00 o'clock the same --

A The phone rang.

Q The same evening; is that right?

A The same evening.

Q And when the phone rang, could you identify the voice on the phone?

A Oh, yes.

Q And that would be approximately what time?

A 11:00 o'clock, about. (101)

Q All right, and who was on the phone?

A It was Miss Hood.

Q And did you talk to her at that time?

A Did I what?

Q Did you talk to her? (101)

A Yes.

Q And did she talk to you?

A She did.

Q And at that time did she make certain complaints to you?

A She did.

Q As a result of what she said, the complaints to you, did you give her any instructions?

A May I tell just what happened?

Q No, just -- did you give her certain instructions at that time?

A I told her to call the police, at least I asked her if she would call the police.

Q And as a result of the conversation you had with her at that time, did you see Miss Hood?

A Not that evening.

Q All right, when did you see Miss Hood after the conversation you had with her?

A About 9:00 o'clock the next morning in my office.

Q In your office at that place located where?

A 1801 Eye.

Q When you saw Miss Hood in your office, was there anyone in the office with you at that time?

A My nurse.

Q As a result of seeing Miss Hood in your office on the morning of November 10th, did you make any physical examination of Miss Hood?

A I did.

Q What examination did you make of Miss Hood and what did you find?

A I did a pelvic examination, or attempted to do a pelvic examination.

Q Just what do you mean by that, Doctor?

A That is, examining the genitalia, the generative tract.

Q Go ahead, now, tell us what examination, what you actually did and what you found.

A I had her up on the examining table in the examining position, and I found the external area bloody.

Q What external area did you find bloody?

A The vaginal area, that is, the external vaginal area.

Q All right, what else did you find?

A Then with a gloved hand, I started to examine her, and did, (102-103) separating the buttocks and the labia, that is, the external part of the vaginal opening, the internal labia, and found a laceration which looked as if it might penetrate right into the vagina.

I attempted to put my gloved finger into the vagina, and I struck something that I had never felt before, and she began bleeding very profusely with any attempt of a very gentle examination. The blood just poured from her. I knew I was in something that I had better get out of very quickly, because I was afraid that -- this was red blood that began coming -- that she would -- well, I didn't know what would happen. So I put a pad up in her and got her buttocks together and got her off of the table as quickly as I could and called Dr. Gerber, who is a surgeon, called the hospital and got a bed for her, and called the police.

BY MR. McLAUGHLIN: (104)

Q Doctor, have you got a chart there --

A Yes, I have.

Q -- showing the parts of a woman's body?

MR. McLAUGHLIN: May I mark this as a Government exhibit for identification No. 5?

Q Showing you Government Exhibit marked for identification 5, Doctor, can you just describe what that is?

A Well, this is a very crude cross section of the female pelvis.

Q Just hold it in this position so we all can see.

A This would be the woman standing up.

Q All right, now, you say that is what, madam? (105)

A This is a cross section looking just as if the woman were lying.

Q Cross section of what?

A This is a woman split in half, female.

Q In what position is the woman?

A Right this minute she is standing. This (indicating) is the buttocks. This (indicating) is the inside of the thigh, and this (indicating) is the front of the body.

Q Where is the vagina there?

A This (indicating) is the vagina.

Q All right, and where is the rectum?

A Here (indicating).

Q Now, when you say that you examined Miss Hood on the morning (105) of November 10th, just tell us what examination you made and what did you find at the time, pointing out on that chart, demonstrating what you are saying.

A If I may turn it this way, she would be in this position (indicating). She would be on the examining table, with the thighs stretched apart.

Q Don't you think we would be able to understand it better in the standing position and see it better?

A Well, maybe so. (106)

Q Yes, I think we would, Doctor.

A Well, understand that I wasn't going down this way (indicating). I was going this way (indicating) in my direction.

Q I mean, just tell us on the chart.

A What I found?

Q Yes, Doctor.

A Well, I found a tear from here going on back here (indicating).

Q That tear is from where? Name the parts of the body.

A I found a tear from the hymen back almost to the rectum, and then a deep penetration; at least I didn't realize how deep it was, because I got out.

Q When you say a deep penetration -- wait a minute -- in reference to what you remarked as a tear, is that tear on the surface?

A This tear is on the surface all right, on the surface and into the tissue.

Q All right, when you say that tear was on the surface, can you tell us whether or not that was just on the surface or whether it was deep or into the body?

A Well, it was through the skin, through the tissue under the skin and apparently -- this (indicating) is just as I looked at her before (107) I started my examining finger -- was going deeper and deeper as I looked at her. It was definitely through.

Q Did you attempt at that time to find out how deep it was?

A I attempted to.

Q What attempt did you make and what did you find?

A Well, I had a gloved finger. I put my gloved finger around here (indicating) and then started towards what I thought was the vagina, and I wasn't certain, I wasn't entirely in the vagina. My finger went up so

(indicating), and went up the length of my examining finger and was still going. (107)

Q You say your finger was in the vagina at that time?

A I said I thought my finger was going into the vagina. It went into a space. It was not, as a matter of fact, until she was on the examining table and anesthetized that we knew exactly where that penetration was.

Q Was it in the vagina?

A The penetration was partially just at the external part of the vagina, had penetrated here (indicating), between the vaginal mucosa, that is, the mucous membrane or the lining of the vagina, and the mucous membrane or lining of the rectum. This is muscle, as a matter of fact, that was torn right asunder. This (indicating), fortunately, was not torn in two, which I was afraid on the examining table in my office had been, which would have been a very, very serious thing, had the rectum been -- (108)

Q Referring to the vagina, Doctor, you referred to the entrance of the vagina, that is, the lips of the vagina.

A The whole external -- yes, that is right.

Q Was there anything from your examination that would indicate that some object had entered the lips of the vagina?

A Well, frankly, it was my impression at the time that a hard erectile object or an erectile penis could have made this entrance.

Q That had entered the vagina?

A Well, that was my impression that it had, that had produced this laceration, this deep laceration.

Q Can you tell us from your examination whether or not the hymen was intact?

A The hymen was definitely not intact. It was cracked. It was torn a little bit. It wasn't as wide open as if a woman were having a baby or had been married. It was not that at all. It was more as probably a small laceration of about, oh, well, I hate to describe it, but just a small tear at this part of the vagina, this part here (indicating).

Q How far would you say the hymen was in from the lips of the vigina?

A Well, of course, the lips are not really part of the vagina. The (109) so-called lips are folds of tissue. There are two sets of lips on either side here (indicating), one called the labia majora and the other the labia minora, that sort of make double folds that cover over the entrance to the

vagina. We call it medically the introitus. It is the entrance or (109)
doorway, and that was definitely bruised and torn.

Q And it is your opinion, Doctor, that the vagina had been penetrated --

A Locally.

Q -- by some object that would be a penis?

A That is right.

MR. McLAUGHLIN: I believe that is all I have of the doctor. Oh, one more question.

BY MR. McLAUGHLIN:

Q Doctor, did there come a time when you went down to Police Headquarters with Miss Hood?

A Yes, sir.

Q Can you recall when that was?

A As a matter of fact, I don't know, I mean, I know, but I can't remember. It was sometime after this some weeks, I think.

Q Do you recall what month it was in?

A I can't right this minute. (110)

Q What?

A I can't right this minute.

Q Do you recall what day of the week it was?

A It was Sunday.

Q Were you with Miss Hood prior to going to Police Headquarters?

A Yes. Miss Hood was at my place down in Charles County.

Q What time would you say you arrived at Police Headquarters that Sunday?

A Around 6:00 o'clock.

Q 6:00 o'clock?

A About that.

Q Did there come a time when you saw the defendant here, Mr. Coleman, at Police Headquarters?

A Yes.

Q And while you were at Police Headquarters, did there come a time when you were present when Miss Hood talked to the defendant?

A Yes.

Q And the defendant talked to Miss Hood?

A Yes.

Q Can you recall, how long would you say you had been at (110) headquarters with Miss Hood before that took place?

A Oh, a matter of hours, two or three, possibly four hours. (111)

Q What conversation did the defendant, if any, have with Miss Hood in your presence, can you recall?

A I really don't remember now exactly in detail, but he said -- and this is what stuck in my mind: "Yes, I took your money, but I didn't harm you." He kept saying, "I took your money, but I didn't harm you." Now he said other things, but, I mean, that is what I specifically remember.

Q Do you recall what else he said at that time?

A I asked him if he had a knife, because this thing was so big, and he said, "Oh, no, I didn't have a knife." And I asked the sergeant what he meant, and he said, "Well, he means that he is a bookmaker." I mean, that is just what -- and that he wouldn't carry a knife because --

Q No, no. Do you recall him saying anything else to you as to what happened?

A No, I didn't have any conversation with him at all, except I just asked him if he carried a knife.

Q Have you told us all that you can recall of what he said to Miss Hood?

A He said many other things, most of it was repetitious of what I have said. That was the gist of it. He said also -- I do remember now -- (112) I think one of the policemen asked him how he explained the blood that he had found in the garage, and he pulled up his trousers, and he said, "See?" He said, "See?" And I naturally tried to see, as well as the other did, and there was a little spot, an insignificant spot on his knee, and he said, "See? All that blood came from where I struck a tack."

MR. McLAUGHLIN: I believe that is all I have of this witness, Your Honor.

CROSS EXAMINATION

BY MR. TYLER:

Q Now, Doctor, would you mind if you can, telling us why you asked the defendant if he carried a knife? I believe you stated on direct examination that you asked him whether he carried a knife.

A Well, I was trying to be very certain. This deep laceration could have been done by many things or several things. It could have been done by a blunt object. It could have been done by a sharp object. It was my impression that it had been done by a blunt object. Dr. Gerber and I in the hospital,

when she was under anesthesia and examining -- Dr. Gerber said, "Did you ever see anything so horrible?" And I said, "No." (112)

Q We wouldn't go into that, Doctor.

A All right. And that was why -- let me finish this -- (113)

THE COURT: You can't finish it unless counsel wants it.

THE WITNESS: Excuse me.

THE COURT: Do you want it, Mr. Tyler?

MR. TYLER: No, thank you.

THE COURT: All right, sir.

BY MR. TYLER:

Q Now I believe you stated that there was a slight tear of the hymen?

A That is right.

Q Not the kind of tear that a married woman would have?

A That is right.

Q Would I be correct, then, if I should say that you meant by that that it was not the kind of fracture that would be caused by sexual intercourse?

A No, I don't say that it all. With a married women, when I said that, you don't have a hymen as a rule.

Q Well, as a rule. Now what I am saying --

A Well, I will say you don't have a hymen period.

Q Were you able to ascertain, Doctor, the extent to which this penetration took place into the body?

A Well, not on my examining table, because --

THE COURT: No, at any time, he means.

MR. TYLER: Yes. (114)

THE COURT: At any time.

THE WITNESS: Yes.

THE COURT: All right.

THE WITNESS: It was, I should say, about eleven centimeters. Now there are two and a half centimeters to the inch.

MR. TYLER: Well, we will have to do some arithmetic.

THE COURT: Between four and five inches.

THE WITNESS: Yes, that is right.

BY MR. TYLER:

Q Could you also, Doctor, give us the approximate diameter of this insertion into this womb?

A Well, I had no difficulty getting my examining finger in, (114) and as I say, I withdrew because she began bleeding profusely, and I realized promptly that she needed very expert and surgical care, but Dr. Gerber got his two fingers in easily. His fingers are much bigger than mine. The penetration, I should say, if I may continue, and the laceration there was sufficient for me to believe —

Q Well, Doctor, we don't want that.

A Well, you asked me to explain this and I am going to, if I may. May I, Judge?

Q. I want the diameter.

A I am trying to explain about the diameter. (115)

THE COURT: Just a minute. You want her to explain what you mean by diameter.

THE WITNESS: He asked me the diameter. I am talking about the diameter.

BY MR. TYLER:

Q All right.

A An inch and a half, approximately, or a little less, in other words, about the size of a sizable male erectile penis.

Q Now this penetration went through muscle tissue, did it not, Doctor?

A It did. It bissected muscle tissue, pushed the fibers apart.

Q The object which made this penetration did pass the outer lips of the vagina?

A That is right, and the inner lips also.

Q And the inner lips, and then at that time took a diagonal course into the muscle tissue?

A That is right. If I may use my chart again?

Q All right, go ahead.

A Here (indicating) is a woman lying on her back. May I have a pen or something? If you can visualize an object, if one can, coming from this angle (indicating), hitting this area which is the external genitalia, penetrating this and missing this part but going right into here (116) (indicating) with force. So this was the diagonal. A little bit further, it would have torn right into the rectum, but the Lord was with her.

Q Could that wound that you have just described, Doctor, have been caused by, say, a fall on an object such as this pencil here?

A When?

Q At the time. Could the wound have been caused by something like that?

A No, it could not have.

Q I believe you stated it could have been caused by many things. (116)

A Well, not this. When I said many things, I overstepped myself.

Q Now are you changing your prior testimony, then, from saying --

A No, not exactly. When I said many things, one or two or possibly three things. It could have been caused by an erectile penis, as I said. It could have been caused possibly by a dagger, a large one. It could have been caused by the rung of a chair.

Q By the rung of a chair?

A Some big object.

Q Doctor, on the basis of your medical knowledge, would you (117) consider this question carefully now, and before you answer, allow the Government a chance to object: On the basis of your medical knowledge, Doctor, would you say it would be possible, in the light of your experience, for a penis to have attained a state of erection sufficient to have been able to insert itself from the outer lips into the muscle fiber --

A Definitely.

Q -- and penetrate five inches?

A Definitely.

Q Would that cause any injury to the penis?

A That I don't know.

Q In relation to the muscles of the torso and other muscles in this region particularly, would you describe these muscles down there as of a strong construction?

A Yes.

Q And despite the fact that these are muscles which would be considered strong muscles, there, nevertheless, could have been a penetration as you described?

A If the direction of force had been in the right direction. The muscle -- it is comparatively easy to dissect it.

Q Was the diameter of this penetration the same for the entire extent of the wound?

A It is hard to say. There was this deep tear on the outside, (118) this superficial tear, we'll say, and this was sufficient to tear this on up through, pushing, apparently, the tissues aside.

Q Well now, is your answer that you don't know whether it was the same, or you have not been able to ascertain your answer?

A When there is a wound, if I may digress a bit and explain (118) anatomically and so on, you may push a sharp object in your arm and make a deep penetrating wound in your arm. When the object that has made the penetrating wound is withdrawn, you can't tell in there just the depth or how wide that is, because the tissue promptly comes in and folds in. Now even around this area, it is even more so. Now just a minute, if I may have it, please.

So that any wound in this area -- this is an area through which children are born. The head ordinarily comes down this way (indicating). So it has wide distensability, and often after a baby's head has penetrated this area and come on down and been born, in fifteen minutes you look back at this area and it has collapsed in, so that you say well, how in the world did that baby's head get through this area.

Q So that your answer is, then, that you don't know?

A The answer is that I couldn't answer you specifically or positively that there was the same width or diameter from here (indicating) up to (119) here (indicating). I don't think anybody could tell you that exactly.

Q How much time had transpired, to your knowledge, from the time that the accident took place until you made this examination?

A She called me, as I say, about 11:00 o'clock. I examined her the next morning around 9:00.

Q 9:00 o'clock the next morning?

A That is right.

Q In the average adult female, taking a course which you have just described to us, running in the direction -- am I correct, in this direction (indicating)?

A Yes. (120)

Q Is that the approximate direction?

A That is the approximate direction.

Q Now, taking that course of direction which you have just described to us, is the depth of this muscle (indicating), extending from the vagina to the rectal region, sufficient to be able to accommodate an average male penis --

A Yes.

Q And it could accommodate, as you have already said, a dagger --

A Yes.

Q -- or a third object which you have already mentioned a rung of a chair?

A That is right. I gave that rung of the chair simply for the (120) diameter.

Q Doctor, by way of analogy, am I correct, on the basis of your answers, that where there is a normal birth, fifteen minutes after the birth has taken place, you would wonder how such a passage could have been made?

A No. I said one says how in the world did that come through, (121) because it is miraculous how the tissues return to their original state.

Q Yes, in fifteen minutes?

A Well, I said fifteen minutes, shortly afterwards, yes.

Q Fifteen minutes, a half hour?

A Yes. I am talking about a normal birth. It hasn't returned to its original state, you understand, but it has collapsed.

Q And yet, on the other hand, with a wound that you examined approximately ten hours after it took place, which was made by an object of no greater diameter than a penis, you are able to give us some definitive idea as to an approximation of its depth and latitude?

A Oh, yes, exactly. As you start in reexamining a womb that had given childbirth, you go in there and dilate that very easily. You can put your fist in. But you said could I tell by looking at this, and you can't exactly tell. You couldn't tell the size of the baby's head. You can say a baby had been born, and one could easily here. I mean, as far as that is concerned, since I introduced the baby, we'll get it out of the picture, and it did go in for at least 11 centimeters up in here, which was open. It hadn't healed. This had bled very profusely, and when I examined her, it was full of blood, and she was still bleeding again when she went into the hospital. This (122) was kept open by bleeding.

Q Now, Doctor, would you, if you please, more adequately describe for us what you meant by a crack in the hymen?

A Probably crack was the wrong term. I should have said a little slit.

Q A little slit?

A Yes. When I say little, I will leave off little. I will say a slit. You see, we'll say the hymen is this (indicating), my fingers. Now there was a tear right through the hymen so (indicating), and then that was rather tenuous, that tear. It by-passed and then went on deep beyond.

Q So that the object which made this penetration, would you say, may also have made that tear?

A That is right. I would say it could have, and it probably (122) did.

Q Could you tell us, Doctor, the approximate length of this tear in terms of fractions of an inch?

A What tear?

Q The tear of the hymen which you have just described to us.

A Oh, I don't know. Fractions of an inch? Do I have to be (123) that specific?

Q Well, I am afraid -- if you can, Doctor.

THE COURT: Give your best judgment, that is all.

THE WITNESS: I should say a quarter of an inch.

BY MR. TYLER:

Q A quarter of an inch tear?

A Maybe, maybe a little more, maybe a little less. The mucous membrane was separated.

Q Now, Doctor, I believe you stated you went to Police Headquarters, you got there about 6:00, and you were there approximately two to four hours before this defendant allegedly came in and made certain statements; is that correct?

A I wouldn't be specific about the hours, because I didn't keep track. I had to come up from the country, and we got into town about 6:00 o'clock and went directly to Police Headquarters. We sat around for quite a little while, and so I should say it was sometime between 8:00 and 10:00 that we saw him, that I saw him. I wouldn't be specific or pinpoint it.

Q How many times did you see him while you were at headquarters?

A I saw him twice.

Q And approximately the first time you saw him was around 6:00 (124) or shortly thereafter?

A No.

Q What time was it, approximately, the first time you saw him?

A I wouldn't say.

Q Well, how soon after you arrived there did you see the defendant for the first time?

A If this is not held against me, I think it was approximately an hour, an hour and a half or maybe two hours.

Q You were there that long before you saw him the first time?

A Something like that. It didn't seem immediately.

Q How long was it before you saw him the second time? (124)

A I saw him twice between 6:00, we'll say, approximately 6:00 and 10:00, and I don't know exactly the division of time. I don't remember.

Q Could you give me an estimate of an hour, a half hour, if you know, roughly?

THE WITNESS: Because I am a little confused as to that time. I remember we got in about 6:00 and we got out of the police court around about (125) 10:00, and saw him when he was being identified; I sat back, and then I saw him in the other office, and I saw him twice. I don't really remember how close together it was. Probably it was more nearly 10:00 when I saw him the second time.

BY MR. TYLER:

Q Do I understand you correctly, or your previous testimony, to state that the time during which he made these alleged statements was during the second time you saw him?

A Yes, it was.

Q Let's go back to the first time you saw him on that particular occasion. What, if anything, transpired at that time?

A What do you mean?

Q Well, what did you do or what was he doing when you saw him?

A He was in the lineup.

Q At the time of the lineup, would you tell us what was said and done?

A I couldn't.

Q I beg your pardon?

A It is necessary?

Q Yes.

A Well, it was like a radio program, as a matter of fact.

THE COURT: No, don't tell us what it was like. Just tell us what (126) you saw, please.

THE WITNESS: Well, that was part of what I saw. These several prisoners were brought out one at a time, I believe. I was comparing it with Dragnet so much at the time. And one at a time they were lined up before this microphone, I suppose it was, and told to repeat certain things. Let me see. That is right, they said, "Repeat this: I have got to do it to pay my rent. I have got to have the money to pay my rent," something of that kind. Each one of these prisoners said that particular thing, and that, in substance, is what they said. And shortly after, they passed on and lined up.

Q At that time, was there any identification made as to this (128) defendant sitting here?

A By whom?

Q By Mrs. Hood.

A Miss Hood.

Q Miss Hood, -- we'll get it in a minute.

A Yes.

Q What were the exact words used in making this identification?

A I don't remember. I couldn't begin to say the exact words.

Q Do you remember the general tenor of what was said? (129)

A Yes.

Q Would you give it to us, please?

A They asked her, as I get the general trend here, to put her finger upon the one that she recognized, and she did. She put her finger on this man who is sitting here (pointing).

Q Did she at that time explain how she recognized him or, rather, did she -- let's put the question this way: Did she qualify why or in what manner she was identifying him?

THE COURT: Don't you think it would be better if she said what she heard by way of identification?

BY MR. TYLER:

Q All right, you heard the question of the Court.

THE COURT: Did you hear what she said?

THE WITNESS: I think she said. "That is the man," I think she said. Now I wouldn't be positive about that.

BY MR. TYLER:

Q You think she said that?

A I think she said that.

Q And what, if anything, did she say then?

A I don't remember.

Q Were you present at the time Miss Hood gave an explanation as to the manner in which she was going to make an identification? (130)

A You mean at the police court?

Q Yes. Do you understand the question?

A No, I don't.

Q Did she say that she could identify the man by his voice? Did she say she could identify him by the way he looked?

A She said that she was positive that that was the voice. (130)

Q That was the voice?

A That is right.

Q And did she ever tell you that she did not, as a matter of fact, know who it was that attacked her?

A Yes. I will tell you, if I may. I said, "Do you know who it was? Was he white or black?" If may go ahead --

Q Go ahead.

A And she said, "I couldn't be positive, because it was dark, but," she said, "I got a silhouette, just a faint silhouette." She also said that for a brief time she was unconscious; that is, she just blacked out for very shortly, and she said, "I don't know whether it was before or after the blackout." But she said there was just a silhouette that she got an idea it was a Negro. Also, she said, she put up her hand and that the head felt Negroid, that is, as if it were kinky hair. (131)

And I said, if I may answer that -- and I said, "Don't get any predisposition in your mind, because you don't want to throw this thing off. There are white men who have hair that feel like that and there are white men that may have a similar silhouette," So I said, "Try to remember the silhouette and try to remember the sensation in your hand, but don't try to interpret it." That was the conversation that I had, and I have tried to bear that in mind.

Q That you.

Now at any time, Doctor, in the course of your conversation with her during which she was attempting to identify this defendant, did she mention have felt a scar on the defendant's forehead or on this particular party's forehead?

A I don't remember that.

Q At the time you made the examination, Doctor, of Miss Hood, did you have knowledge of another ailment which Miss Hood was suffering at that time?

A She wasn't suffering from any ailment at that time.

Q Was there some mentioned made of the fact that she should be or was about to begin her menstrual period?

A That is right.

Q How long, Doctor, did this flow of blood continue?

A Which flow? (132)

Q How many flows were there?

A Well, that was — are you talking about this wound?

Q During this particular time, Doctor.

A You mean from this injury?

Q That is right.

A She was bleeding apparently when she called me, and she was wearing several Kotex pads when she came into my office which were saturated, and she said that she had changed these Kotex several times. But when I started to examine her, there wasn't just more or less black blood and clotted blood on the surface. As soon as I started to examine her, there was a gush of red blood, which in examining her I disturbed the clotting mechanism and started this bleeding all over again. She bled so much that we arranged for a transfusion, but found that she didn't really need it. Now if I may continue, please, if I am permitted.

Q We are going to this particular flow of blood.

A I am coming to that.

Q I mean, we are on that now.

A I am on that now.

A I am on that now.

Q All right.

A It was along in the afternoon before she could be operated upon. In the meantime, she was kept together this way, her buttocks were (133) kept together as near as possible, and she was kept quiet. And, of course, as soon as she was on the surgery, up on the surgical table, the blood was controlled. So that I would say she bled off and on from the time that she had this injury, she was attacked, until surgery controlled it.

Q And how long a period was it that that took place?

A I should say she was operated on, repaired, oh, around about 4:00 o'clock.

Q Of the day in which she was admitted to the hospital?

A That is right.

Q Which was the day following that when she appeared in your office?

A That is right -- no, no, it was the day that she came in my office.

Q The day she came in your office. Was there another flow of blood which followed immediately thereabouts?

A No.

THE COURT: You mean after the operation?

MR. TYLER: Yes, sir. (133)

THE WITNESS: No. She began menstruating before she left the hospital, but that was -- I mean, she began menstruating before she left the hospital, if that is what you mean.

BY MR. TYLER: (134)

Q Yes.

How long had she been in the hospital?

A She was in the hospital about a week.

Q How long had she been in there before she began menstruating?

A Oh, five or six days.

Q Now am I correct, Doctor, in saying that all of the injuries which you have described --

A I have not described all of her injuries.

Q Well, all that you have related to us to this extent -- is it not possible that all of the matters which you have related to us thus far could have been caused, as you say, by several things other than a penis?

THE COURT: You mean possible.

MR. TYLER: Possible.

THE WITNESS: You mean this injury to the genitalia?

BY MR. TYLER:

Q Yes.

A Could have been caused by other things?

Q Yes.

A It is conceivable. It is rather improbable, but it is conceivable.

MR. HARRIS: I didn't hear that.

THE COURT: She said it is conceivable rather than improbable; is (135) that correct, madam?

THE WITNESS: That is correct.

BY MR. TYLER:

Q Doctor, in this wound which you have just described, did you find any spermatozoa?

A No.

DR. AARON H. GERBER

was called as a witness by and on behalf of the Government, and after being duly sworn, was examined and testified as follows: (136)

BY MR. McLAUGHLIN:

Q Now, Doctor, your full name is what?

A Dr. Aaron Gerber.

Q Sit down, Doctor. Doctor what?

A Aaron Gerber.

Q And where is your office located, Doctor?

A 1835 Eye Street, Northwest.

Q And you are a practicing physician here in Washington, D. C., are you not?

A I am.

Q And have been for how long, Doctor?

A I graduated in 1934.

Q And have you practiced medicine here in the District of Columbia --

A Yes, sir.

Q -- since that time?

A No, sir. I have practiced medicine since that time, with the exception of the time consumed in training.

Q And you have been practicing in Washington for how long?

A About 14 years.

Q Calling your attention to November 10th, I believe, of 1955, did you see a patient identified to you as Miss Hood? (137)

A Yes, sir.

Q And Miss Hood was referred to you by whom, Doctor?

A By Dr. Grace Purse.

Q And is she the doctor who just preceded you on the stand? She was on the stand just before you were?

A Yes, sir.

Q And where did you see Miss Hood?

A I saw Miss Hood as a patient in Doctors Hospital.

Q Were you called in for surgery in regards to Miss Hood?

A I was called in for consultation.

Q And did you make an examination of Miss Hood?

A Yes, sir.

Q Was Dr. Purse present at the time?

A Dr. Purse was present during one of the examinations.

Q And how many examinations did you make of Miss Hood on (137) November 10th?

A One examination was performed in her room and another was performed in the operating room.

Q What did your examination consist of and what did you find?

A The examination was what was designated as a pelvic examina- (138) tion, and I found a laceration of the perineum.

Q Doctor, I show you Government Exhibit marked for identification No. 5. You have seen this before, have you not?

A Yes, sir.

Q You are familiar with that and know what it is?

A Yes, sir.

Q In regard to your examination, Doctor, of Miss Hood and what you found and as you have explained it to the jury here, the conditions you found there on Miss Hood, will you just point out on Government Exhibit 5 as to where the locations were of these different things that you found?

A If this were to represent —

A — the patient in the supine position, lying on her back with her knees drawn up, the landmarks are, from above downwards, the bone in front of symphysis (indicating), the bladder, with the urethra leading out of it — in other words, this would be the urethritis, from the issue of the urine. This (indicating) is the vagina, and this is the anus (indicating), (139) with the issue of the rectal contents. The line which you possibly cannot see at this point would be the humenal ring. The lasceration which I found upon examination extended from the vestibule which is the area between the hymenal ring and the junction of the major and minor lips.

Q Is that inside the vagina, Doctor?

A The vestibule is at the point of entrance to the vagina.

Q The point of entrance, and extends how far back in the vagina?

A You have reference to the vestibule now?

Q Yes.

A It extends to the hymen.

Q The hymen?

A Yes, sir.

Q So it is an area that is in the vagina; is that right?

A Yes. This (indicating) is a triangular area, this area concerning which you are inquiring now.

Q Some of these jurors can't -- hold it up -- that is it. (139)

A All right, sir. This area (indicating) concerning which you are inquiring now is a triangular area that is bounded inwardly by the hymenal ring and on the outward side by the major and minor lips of the vagina, of the genitals. Does that answer your question? (140)

Q Yes.

A Now the laceration, then, extended from the vestibule, at the root of the hymenal ring, downwards to but not including the anus, and it extended inwardly for a distance of approximately 11 or 12 centimeters, dissecting its way in the soft tissue between the vagina here (indicating) and the rectum here (indicating). In other words, the laceration extended inwardly in this direction (indicating), exposing the rectal wall.

Q How deep would you say that was?

A I would say it was about 11 to 12 centimeters in depth.

Q When you say that, can you give us something that would indicate that?

A Well, it is customary for us to employ these fingers in the measurement of patients for obstetrical purposes. So we know that this is approximately 11 centimeters in length, and I was able to introduce my fingers to this point (indicating). I was able to introduce these fingers to this point (indicating) between the vagina and the rectum in this manner.

Q That is, in the tear?

A That is, in the laceration, in the tear, yes, sir.

Q Now, Doctor, from your examination of Miss Hood at that time, (141) could you say that injury was caused by a penis?

A Would you restate the question?

Q I say, from your examination of Miss Hood and the conditions that you found there, would you say that that condition could have been caused by a penis?

A Are you asking me that as an expert witness?

Q Well, it is up to you.

THE COURT: Are you competent to answer it, sir?

THE WITNESS: Sir?

THE COURT: Are you competent to answer it?

THE WITNESS: I would think so, sir.

THE COURT: All right, sir, then I think you had better answer it, if you will.

THE WITNESS: It could be, sir. (141)

MR. McLAUGHLIN: I believe that is all I have of the doctor, Your Honor. Oh, just one more question.

BY MR. McLAUGHLIN:

Q Would you say that all the tears and all that you found there were of recent origin, Doctor.

A Yes, sir.

MR. McLAUGHLIN: That is all.

CROSS EXAMINATION (142)

BY MR. TYLER:

Q Doctor, let me ask you this, sir: Is it probable, sir, that a penis, once having penetrated the vestibule, would take such a course as that?

A That would depend upon the position of the patient.

Q Sir?

A That would depend upon the position of the patient and upon the direction intended for the penis.

Q Well now, take any conceivable position that you like. This penetration was within the vestibule; is that correct?

A That is correct.

Q Take any position you like. Is it probable, sir, that a penis, once having penetrated the vestibule in any position, would take a course like that through muscle tissue?

A That would depend upon the position of the penis, the position intended for the penis to follow.

Q Would you say, sir, keeping that in mind, that it is (143) conceivable that a penis, once having penetrated the vestibule, would take a course like that?

A Yes, sir.

Q Is it probable?

A Under certain circumstances.

THE COURT: You mean by that the circumstances which you recited, sir?

THE WITNESS: Yes, sir, meaning, if I may make it clear --

THE COURT: Yes, sir.

BY MR. TYLER:

Q Go ahead.

A -- meaning a penis. I made no statement that the object was a penis, but an object such as a penis, when held in a certain direction and is direction propelled or motivated by the holder of it,

can readily produce the injury, the direction of injury which I have recited. (143)

Q Assuming, of course, that the average male penis is capable of sufficient erection for such a penetration, sir. Is it, sir?

THE COURT: Is that question clear to you?

THE WITNESS: That question is clear, sir, but if I may say so, it is not restating his original question. He is asking a separate question now.

THE COURT: All right. (144)

BY MR. TYLER:

Q Answer each one, Doctor.

A Namely, whether the erection of an average penis is capable of such an injury.

Any case of injury involves two things. It involves not only the organ with which the injury is being perpetrated, but also the tissues which are being assaulted. So that involves two cases. Therefore, in answer to your question, I would say that given a penis of average erectile power and tissues of the female genitalia of equally average texture, as a rule, I would consider it not likely that such damage could be performed.

Q Thank you, Doctor.

Will you indulge us a minute, Your Honor?

THE COURT: Yes, sir.

BY MR. TYLER:

Q Now this damaged tissue, which you have related in terms of which I have questioned you, could have also been caused by numerous other objects; is that true, Doctor?

A Yes, sir.

Q Let me ask you one other question, Doctor. Would my statement to the effect that the erection of penis is controlled by the nervous system be correct? Isn't the erection of the penis controlled by the nervous system?

A Yes, to some extent, to some extent. (145)

Q Now in a situation where there is a scuffle ensuing, sir, taking place, is the average male penis capable of obtaining a normal erection?

A Your Honor, I would like to say that the question asked properly belongs in the field of neurology. I am a gynecologist.

MARY ALLEN HOOD

was recalled to the stand, and having previously been duly sworn, was examined and testified further as follows:

THE COURT: You may proceed, Mr. Tyler.

BY MR. TYLER:

Q Now, Miss Hood, going back to our statements, our prior testimony, would you mind telling us, if you will, when was the first time that you had the occasion to give a description of your assailant to the Police Department?

A I don't remember exactly, but I believe it was -- I think I tried to describe him to the first two policemen who came to me. Now I was in something of a state of shock. I don't know how clearly I said anything. I think I tried to describe him when I first talked to the police.

Q Of course, I realize you said you weren't clear, but do you recall the exact description or the approximate description, as near as you can remember?

A No, I don't. I just have some sort of a hazy feeling that I tried to describe him.

Q When was the next time immediately after this particular time, that is, the second time, that you recall having given a description to the Police Department?

A Well, I probably tried to describe him to the next two police who came. They came in groups.

Q That was the next day?

A No, that night. Some more came.

Q Is your recollection of that description you gave then clearer than the previous description?

A Not much. It is all in sort of a haze that I tried to continue (148) to describe him, without much to go on.

Q Well, on the basis of the description you gave at that time while hazy, do you recall the Metropolitan Police Department having taken notes at that time?

A Yes, one man sat over on a chair and took notes.

Q And the description you gave was a description you gave while hazy; is that correct?

A I am not sure. As I say, the whole thing is hazy to me. I remember two things very clearly: (1) the policemen very mad at me for not having called in before and (2) that somebody was taking notes, and those are my clearest memories.

Q What is the best recollection you can give us of the description you gave on those occasions?

A Well, I think I said that he was a man, and they asked me (148) if he was white or colored. I think I said I thought he was colored because I got my hands in his hair. I said he was very strong and that he had a low voice and that he spoke to me without temper and without wrath and very quietly. That is about as much as I can remember at the time, chiefly trying to describe his voice.

Q Did you describe his height?

A Somebody asked me that, but I don't know at what point, whether it was then or later, but they asked me that quite a few times. I don't know when I started to describe it.

Q What is your recollection of the first figures you gave?

THE COURT: Then or at any time, sir?

MR. TYLER: Well, the first one, sir.

THE COURT: She doesn't recall whether she did give it then or not.

THE WITNESS: No, I don't. I don't know when I gave it, but I did try later to describe it.

BY MR. TYLER:

Q In accordance with His Honor's question, what description do you recall giving as to hight at any time?

A Oh, I think I said he was taller than I, but that was about as much as I could say, because when he pulled my head back, I couldn't see anything or anybody. I am very short

Q Well now, how tall did you say he was? Did you give figures?

A No, I didn't try to give figures. How could I? You see, I said I didn't see him. How could I say his height?

Q So that actually, as a matter of fact, there is no recollection of this face as it is, the actual face, there is no recollection of (150) any picture of any face?

A Oh, yes, there is. There is a recollection of his silhouette as he stood over me.

Q No, madam, I am speaking of -- silhouette? A silhouette can be, can it not, of millions of people?

A Oh, yes.

Q And there are millions of people with the same silhouette; would that be correct?

A Roughly, you are right.

Q I am speaking now of features. You have no present picture (150) or recollection of this face or any face?

A Oh, yes, I have. I remember those high nostrils, that protruding mouth, the forehead and I -- remember, this is a silhouette view. It was a view from the side. Yes, I remember the silhouette view, not well, mind you, but just the points I described, and I did try to describe --

Q You did tell the police that you could not identify this man by sight, and you have already told us that you could not identify this man by sight.

A That is right. Well, I have a memory of his silhouette, -- now, mind you, not a memory that would stand by itself without any other support but, nevertheless, a memory of his silhouette.

Q Memory of a silhouette?

A Yes, that is right.

Q Now, in your parlance, ma'am, what is a silhouette? What do you call a silhouette?

A A side view, perhaps of a head.

Q A side view of a head?

A That is right.

A That is right.

Q When you say side view, you are speaking of the actual physical outlines of the face, aren't you?

A Yes.

Q My silhouette would be the physical structures of my face?

A It would be something more known professionally as the picture line, not the structure, mind you, but the outline.

Q That is right, just the outline of the face.

A That is right.

Q So that, actually, what you say was this (illustrating)?

A Right, with some of the back of the head, of course, which you just blocked off. I saw roughly from about here (indicating) on up.

Q In silhouette?

A That is right.

THE COURT: What did you say about back of the head?

THE WITNESS: Well, he just took a piece of paper and blocked off (152) his ear and the back of his head. I saw his whole head from here (indicating) on up.

BY MR. TYLER:

Q Yes, but actually what you saw was one shadow? (152)

A That is right. I couldn't even tell what the color of his chin was. All I saw was the silhouette against the light.

Q As a matter of fact, you didn't know whether he was white or colored?

A No, I wasn't sure.

Q One question. How much time or, rather, how many times during (155) the course of this altercation did you actually hear this particular assailant's voice?

A Which altercation?

THE COURT: Speaking of the night of the 9th, the night of the 9th, in the garage.

THE WITNESS: I couldn't tell you how many times, but I heard it quite a bit, particularly when he said he was going to shoot me between the eyes.

BY MR. TYLER:

Q When he said that, was that after you had recovered con- (156) sciousness?

A Oh, no. He started out that way. Then he said it after I recovered consciousness, underneath what I later determined was the stair well; at the time I did not know it. That was his, I should say, his power point of conversation, his convincing me. I never doubted that he would. I heard it many times, and he had quite a lot to say running along. I think he talked to me pretty much the whole time in a low, may I say, friendly tone of voice.

REDIRECT EXAMINATION (163)

BY MR. McLAUGHLIN:

Q Was it at that time that the defendant made the admissions (166) to you as to what happened on November 9th?

A Yes, but my reservations were dropped before he made the admissions at the tone of his voice, but it was at that time that he made the admissions.

Q Now in those admissions, Miss Hood, do you recall as to (167) whether or not the defendant said anything as to where he went after he left you in that basement?

A Yes, he did.

Q Do you recall, where did he say he went to?

A He said he went out in the park and sat down and that a policeman passed right by him, and then he said he went to his father's and borrowed the rest of the money for his rent.

Q Do you recall how much he said he borrowed from his father?

A He said his rent was ten dollars. I believe he said he (167)
borrowed the difference, I am not sure.

Q What difference?

A It would be about six dollars, between four and ten. That is rather an approximation, because I don't know how much he already had.

RECROSS EXAMINATION (172)

BY MR. TYLER:

Q Miss Hood, going back a moment to the testimony you stated the defendant allegedly gave you, do I understand you correctly now in your redirect to state that the defendant Coleman told you that he did not at any time harm you?

A That is what he told me.

Q Miss Hood, did I also understand you to say that he told you you fell on an object in the basement there?

A He said I got hurt by falling on a tack.

MR. TYLER: Thank you.

CHARLES F. SULLIVAN (173)

was called as a witness by and on behalf of the Government, and after being duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. McLAUGHLIN:

Q Now, Mr. Sullivan, your full name is what?

A Charles F. Sullivan.

Q And you are a member of the Metropolitan Police Department?

A Yes, sir.

Q Assigned to any particular detail on the Metropolitan Police Department?

A Yes, sir. I am assigned to the Bureau of Identification.

Q Were you assigned at that particular date, January 15, 1956, to the Bureau of Identification of the Metropolitan Police Department?

A I was, sir.

Q And as a member of the Police Department, assigned to the Bureau of Identification, what are your duties?

A My duties are to fingerprint and to photograph prisoners (174)
that are brought into the Police Department.

Q I show you Government Exhibits marked for identification 10 and 10-A, Mr. Sullivan, and ask you if you can identify those?

A Yes, sir. These are the fingerprints of Charles Coleman (174) that were taken on January 15, 1956.

Q By you?

A By me. There are fingerprints on one side and palm prints of both hands on the reverse.

Q In other words, Government Exhibit marked for identification 10 is what?

A This is a face card with the fingerprints of both hands and the right-hand palm on the rear.

Q Government Exhibit 10-A is what?

A This is the left hand, taken of the whole palm.

Q Did you take these personally?

A Yes, sir, I took them personally.

Q Do you see Charles Coleman in court here today -- (175)

A Yes.

Q -- whose fingerprints these are?

A Yes, that is correct.

Q Will you point at him?

A Yes, sir. He is the defendant (pointing).

CROSS EXAMINATION

BY MR. TYLER:

Q Sir, does this card represent a standard form used by the Metropolitan Police Department?

A Yes, sir, that is correct. That is a standard form.

Q Is it a fact, sir, or is it so, that each time a person is arrested, they are fingerprinted thusly on these cards?

THE COURT: Excuse me.

(At the bench:)

THE COURT: Here again I am talking about something I don't know about, but I want to put you on notice. I don't think they are every time they are arrested. I think you are going to get an answer, a felony or something serious now. You are entitled to it if you want it.

MR. HARRIS: I think what he has in mind, Your Honor, is the custom. (176) I think he is driving as to the custom of complete identification.

THE COURT: You are perfectly right in asking it, but I want you to know.

MR. HARRIS: Thank you.

THE COURT: I think you will get another answer. So if you can change it --

MR. TYLER: Yes, sir. (176)

(In open court:)

MR. TYLER: Will you indulge us for a moment, please?

THE COURT: Yes, sir.

BY MR. TYLER:

Q Now, sir, is this the customary form which you use in the Metropolitan Police Department for fingerprinting?

A Yes, sir, that is the standard form.

Q Now, looking at this card, sir, this standard form, with prints on it, how do you know that these are the prints of Charles C. Coleman?

A I have taken those prints with that man's fingers, and as soon as they are finished, as soon as I finish the impressions on there, I stamp my name and the date on there.

Q Let me ask you this, sir. Apart from the stamp of your signa- (177) ture and the date, how do you identify this as being the card which, in fact, was the one you stamped?

A I don't see what you are driving at. This is the card that (178) I stamped.

Q Well now, there are many forms and many prints. Only as to this, sir, if the stamp with your name was taken off of here and the date was taken off of there, could you tell whether this was Charles Coleman's card from anyone else's?

A Yes, sir. I could take his fingerprints again and classify them and come to the agreement that they are his fingerprints, yes.

Q I mean, apart from the prints, on observation?

A No, sir, I couldn't tell whether I took them or whether someone else took them.

Q So that actually, sir, if there was another card taken out of the file and it was stamped, as this one is here, with your stamp and your signature, then, apart from an examination of the prints themselves, you wouldn't be able to distinguish one card from the other; is that correct, sir?

A As far as my name on that card is concerned now -- I don't get what you are driving at, but I can tell the prints. I can classify the prints, and regardless of whose name is stamped on it, it belongs to the party through fingerprint classification.

Q Yes, sir, I am aware of that. Let me ask you this, sir. Prior to coming into court today, did you run on these particular cards an examination

to, should I say, re-ascertain whether or not the prints on here were, (179) in fact, Coleman's?

A I do know they were his because he was the only one in there at the time.

Q No, sir, you don't understand my question. I think I am correct, am I not, in saying that the only actual way, as a matter of fact, we can tell whose prints are whose is by an examination and classification of the prints themselves?

A That is true.

Q The card which I am holding now, which purports to be the prints of Charles C. Coleman, was there any examination made on this particular card after the time you took the prints to ascertain whether or not the card which you have here now, today, is the fact the card which you used?

A I don't see what examination you mean. I have taken the man's examination; I have taken his prints. I know I have taken his prints. I have stamped them. I don't know what examination you mean. I don't know what you are driving at.

MR. TYLER: Am I permitted to approach the bench? (180)

THE COURT: Yes, sir, certainly.

(At the bench:)

MR. HARRIS: He denies that is his signature. We had him sign it again. That is why we questioned it, Your Honor.

THE COURT: No, as a matter of fact, you have got a perfect right to question it, but let me see. I understand him to say when this man came in, he personally took the man's fingers and placed them upon this card, and he has the man's name and number up at the top here. And then after he personally did that, he stamped this and he put this on.

MR. TYLER: Yes, sir. Now the only thing, sir, was whether or not, as a matter of fact, this card is the card on which he performed this particular operation, this man having denied his signature on this card. Now it could be proven by an examination of the classification of his fingerprints, but I am speaking for purposes of identification here today the identification on the card itself, as to whether or not this is the card. He is questioning the validity of this card on the basis of his signature.

THE COURT: I don't blame him for questioning it, I mean, as far as that is concerned, but I thought maybe it might help you if this man started at (181) the beginning and went through and told what he did, and then ask him if, in

fact, he actually did that in this particular case, and then ask him about the signature, too. (181)

MR. HARRIS: I see.

THE COURT: I am just suggesting that it might be a happy way.

MR. HARRIS: I wanted Your Honor to know what we were laboring under.

THE COURT: I understand that, but I don't think that is bringing that signature out.

MR. HARRIS: I was trying to show you what we were working on.

THE COURT: Yes, sir.

(In open court:)

BY MR. TYLER:

Q Tell us, sir, exactly what you did with this defendant from the time he came into your presence until the time he left your presence. (182)

A Well, sir, he was brought into my office. There were two of us on duty. The lineup sheet, that is, the paper that accompanies him to our office is called a lineup sheet -- that gives the man's name, his address and short remarks of what he is being sent to the Fingerprint Bureau for. Now, I took that and I looked his picture up in the file. Then I handed him those fingerprint cards. It is a routine to give him those fingerprint cards to sign. He signs them in my presence.

Q I am sorry, I didn't hear the last sentence.

A As he came into my office, I take the lineup sheet. I give him those cards to sign. He signs his signature on them. I take and fingerprint the man, and then I stamp my name and the date on there. Then his picture is taken, and from then on, he goes out. He goes back to the cell block.

Q This card represents that procedure, sir?

A Yes, sir, that is part of the procedure.

Q And the cards are subsequently filed away.

Now let me ask you this, sir. On these cards, is it customary or do you, sir, as a matter of your routine there, have the person sign?

A Yes, sir, that is in the lower right-hand corner, where it says "Signature of Prisoner."

Q If you recall, sir, would you tell us, if you are able to, whether or not the card to which you are just referring, -- was it signed in your presence or was it signed outside your presence, sir. (183)

A Well, I couldn't say whether I actually saw him sign it, but I handed him the pen and then I believe I turned my back while something else --

Q So that, as a matter of fact, sir, you don't know whether (183) the signature which purports to be Charles C. Coleman is the signature actually of this defendant or not, do you?

A Well, I doubt if -- I am not positive now whether I actually witnessed him signing it or not.

Q Thank you, sir.

MR. TYLER: No further questions, Your Honor.

REDIRECT EXAMINATION

BY MR. McLAUGHLIN:

Q You say you give him this card and have him sign it before the prints are taken; is that right?

A Yes, sir, that is right, sir.

Q And then the prints --

A -- are taken and I stamp the card with the date.

Q Do you remember giving this defendant this card to sign?

A Yes, sir, I remember handing him the card to sign.

Q Then you remember getting the card back?

BY MR. McLAUGHLIN:

Q Then you remember getting the card back from the defendant (184) and actually taking his prints?

A Yes, sir, that is true.

MR. McLAUGHLIN: That is all.

RECROSS EXAMINATION

BY MR. TYLER:

Q But you did not actually see the signing of the card, did you?

A I don't recall now.

JOHN B. SINGLETON (187)

was called as a witness by and on behalf of the Government, and after being duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. McLAUGHLIN:

Q Now, Officer, your full name is what?

A John B. Singleton.

Q And you are a member of the Metropolitan Police Department?

A I am.

Q Assigned to any particular detail in the Metropolitan Police Department?

A The Identification Bureau. (187)

Q How long have you been assigned to the Identification Bureau?

A Since April, 1947.

Q Have you devoted your full time to that particular branch, the Bureau of Identification?

A I have. (188)

Q What are your duties as a member of the Bureau of Identification?

A Routine and general fingerprint work and photography, chemical tests.

MR. TYLER: What kind of tests?

THE COURT: Chemical tests.

BY MR. McLAUGHLIN:

Q And you have been doing that, you say, for how long?

A Since April, 1947.

Q And as a member of the Metropolitan Police Department in that particular branch, have you testified in the District Courts here as a specialist in that fingerprinting?

A I have.

Q What preparation have you made in the line of fingerprinting, we'll say, the study of fingerprinting?

A I took a course conducted by the Department prior to my entering the Identification Bureau, and upon entering the Identification Bureau, was under the instruction of the heads of the Department, which have been Lieutenant Bohannon, Sergeant Sandberg --

THE COURT: I didn't hear that.

THE WITNESS: Lieutenant Bohannon, Sergeant Sandberg and Corporal Hayden. And then I have read texts concerned with the work. (189)

BY MR. McLAUGHLIN:

Q And prior to going with the Police Department, what has been your education?

A I completed high school and had two years of college, and I attended a year and a half at Georgetown Medical School.

MR. TYLER: Georgetown what?

THE WITNESS: Medical School.

MR. McLAUGHLIN: Do you want to ask him any questions?

MR. HARRIS: I don't know for what purpose you are offering him.

MR. McLAUGHLIN: Fingerprint expert.

MR. TYLER: Will you indulge us for a moment?

THE COURT: Yes, sir. (189)

MR. TYLER: Yes, I have a couple questions.

THE COURT: All right.

VOIR DIRE EXAMINATION

BY MR. TYLER:

Q Now, sir, this course which you took before you entered the Bureau, that is, the Identification Bureau, from what source was that course obtained, sir, Do you understand the question?

A I understand. The source was the Department. The Department (190) conducted a course for members of the Department who volunteered to take or not to take.

Q This is a general course which any member of the Metropolitan Police Department can obtain?

A It was a course on fingerprinting. It was general.

Q It is available to any member of the Metropolitan Police Department?

A At that time it was, yes.

Q Approximately how long did this course last?

A I think it was four to six weeks; I don't recall exactly.

Q Do you know which source supplied the instructors for this course? Were they members of the Metropolitan Police Department or who were they, if you know?

A They were members of the Identification Bureau at that time.

Q At any time during this course, were you acquainted with or made known as to the qualifications of the instructors of this course, sir?

THE COURT: You would like to know who they were and what was their background, sir?

MR. TYLER: Yes, sir.

THE COURT: Do you remember who they were, sir? Who were the instructors?

THE WITNESS: One of the instructors was Howard Billings, who was a (191) member of the Identification Bureau.

THE COURT: Identification Bureau of the Metropolitan Police Force, sir?

THE WITNESS: Yes.

THE COURT: All right, sir.

THE WITNESS: I am quite certain Mr. Larsen, who was in charge at that time, talked to us, too. On the whole, the course was turned over to the care of Howard Billings.

MR. TYLER: Do you have another question, Your Honor?

THE COURT: No, indeed. I was just trying to understand what you asked him, sir. (191)

BY MR. TYLER:

Q Are you acquainted with any of the individual qualifications of the gentlemen whose names you have just given us?

A They worked for some years in the Identification Bureau and were familiar with fingerprint work.

Q Apart from that, is there anything else you could add?

A About them?

Q Along that line.

A About them?

Q Yes, sir.

A No.

Q Have you, sir, written any articles or made any special studies or given any special reports pertaining to the science of fingerprint identification? (192)

A Written are articles?

Q Yes, sir.

A Do you mean for publication?

Q Yes, sir.

A No.

Q Have you written any articles for general distribution within the Metropolitan Police Department?

A No.

Q Getting to the course under the heads of Lieutenant Bohannon, Sergeant Sandberg and Corporal Hayden, sir, are you acquainted with any of the qualifications of these gentlemen?

A I am more acquainted with them because I have been working with them constantly since I have been there.

Q Could you relate to us in any sequence you like, either with Sergeant Sandberg or Lieutenant Bohannon or Corporal Hayden, any of their specific qualifications which you are personally acquainted with, sir?

A In what regard, qualifications as to fingerprint work?

Q Yes, sir.

A Well, Lieutenant Bohannon and Sergeant Sandberg both have been in the Identification Bureau approximately, well to be very safe, ten years; it has been more than that, and they have constantly been working (193)

with fingerprint work. Corporal Hayden has been there longer than (193)
either Lieutenant Bohannon or Sergeant Sandberg, and both have had over these years the experience that would come their way through the normal work in fingerprint work which we get every day.

Q Do I understand the substance of your testimony to mean, sir, that apart from their general qualifications arising by virtue of their daily contact with fingerprint work, you are not acquainted with anything other than that?

A I have more acquaintance than that. Exactly what do you want?

Q Whatever you have, sir, pertaining to this particular matter, their qualifications that you personally are acquainted with.

THE COURT: You mean courses which they may have taken, sir?

MR. TYLER: Yes, sir.

THE COURT: Courses and studies --

BY MR. TYLER:

Q -- which you feel, sir, would lend or enhance their qualifications to teach this course.

A Well, both have attended conventions of the International Identification Association.

Q May I interrupt you there, sir? How long is that held? (194)

A It lasts about, oh, four or five days, I think.

Q Do you know what takes place during those conventions?

A Yes. There are invited speakers and keeping abreast of the developments in the fingerprint study, not only fingerprints, also in the work pertaining to identification bureaus.

Q Go ahead, sir. I believe I interrupted you there in your answer. You may continue.

A You asked what --

Q The qualifications with which you are personally acquainted, sir, the things which lend themselves to enhancing the qualifications of Lieutenant Bohannon, Sergeant Sandberg and Corporal Hayden.

A Well, I know that they both have studied from the texts that are available in fingerprint and identification bureau work and have relayed the same books on over to us, which we have in turn read, and their general every day experience and contact with the work.

Q Apart from that, sir, is there anything you wish to add along that particular line?

A I don't think so. I don't think so. (194)

MR. TYLER: We have no further questions of this witness, sir.

THE COURT: All right, sir.

BY MR. McLAUGHLIN: (195)

Q Have you yourself read books on fingerprinting?

A Yes, I have.

Q In regard to Lieutenant Bohannon, do you know what his education is?

A Lieutenant Bohannon is a graduate of Georgetown University and has had a Ph.D. from Maryland.

MR. McLAUGHLIN: I believe that is all I have.

BY MR. TYLER:

Q Well, sir, do you know in which field or in which major subject he graduated from Maryland University?

A It was in chemistry.

Q Do you know in which subjects he obtained a Ph.D., sir?

A Georgetown -- you said Maryland, I thought you said.

THE COURT: It is reversed.

BY MR. TYLER:

Q I beg your pardon. I believe you stated he attended Maryland University and got through Maryland; am I correct?

A No, he is a graduate from Georgetown.

Q I beg your pardon. He is a graduate from Georgetown. From which school did he obtain his Ph.D.?

A Maryland.

Q He graduated from Georgetown. Am I understanding you (196) correctly now that his degree was in chemistry from Georgetown?

A May I state at this time that I am under the opinion he has a Ph.D. It could be that I would be wrong about that. I am certain that he worked on it, and I am of the opinion that he has it. But for safety's sake, let me say that is possible that he doesn't have it.

Q Do you know which field of study he was pursuing as a Ph.D.?

A Ph.D. was chemistry.

Q What was that degree at Georgetown? Was that chemistry, too, sir?

A I think that was batchelor of science.

MR. TYLER: I have no further questions.

MR. McLAUGHLIN: I have no further questions.

MR. TYLER: May be approach the bench, Your Honor?

(At the bench:)

MR. TYLER: Your Honor, we submit, it is our opinion, based upon (196) what we have heard, that this is not the type of qualifications which can lend itself to a man being an expert on fingerprints. I am sure a general course supplied by the Metropolitan Police Department for its members --

THE COURT: I don't think, when he says a general course, he means (197) what you say. It is a course given by the Police Department for certain members who want to specialize in fingerprinting. It is not a part of the regular course in that sense. But I just wonder. If you have any question about it, during the recess you can get some of these other people over and give their qualifications, if you really want it.

MR. TYLER: Yes, sir, I would want it.

MR. HARRIS: I would submit, Your Honor, this gentlemen, the witness on the stand, is not qualified as an expert.

MR. McLAUGHLIN: You understand his qualifications. He has appeared and testified as an expert in District Courts before.

THE COURT: Yes, on many occasions.

MR. HARRIS: That question was not asked.

THE COURT: Yes, he did.

MR. HARRIS: That he appeared in court, but, Your Honor, along with that I think the record will show that he asked a number of questions on photography.

THE COURT: Well, we can supply that.

MR. HARRIS: Therefore, that would make him inexpert along those lines.

THE COURT: We are not concerned with anything except fingerprinting. Let's see if he has got that.

MR. HARRIS: I repeat, he is not qualified.

THE COURT: We can enlarge upon that, but what I am asking you (198) about now, if you are interested in having the schooling and background of Lieutenant Bohannon, that can be gotten.

(In open court:)

BY MR. McLAUGHLIN:

Q Officer Singleton, with regard to the authors, can you name some of the authors on handwriting that you have read?

MR. HARRIS: Fingerprinting.

BY MR. McLAUGHLIN:

Q Fingerprinting, rather.

A Yes. There was a course by Cook on fingerprinting, a Chicago firm. I read that. There is also a book by Bridges, a fingerprint expert, who has

written a book. Wentworth and Wilder are two other authors, finger- (198)
print men, who have written a book together. Soderman and O'Connell have written a more general police book but which has a good section on fingerprint work. Then we receive a magazine each month from the Identification Association, and we also receive each month a bulletin or magazine from the FBI which deals with fingerprints. There may have been some others, but those in general, are the books and papers that I have read.

Q You say you have been assigned to the Bureau of Identification of the Metropolitan Police Department since 1948? (199)

A '47.

Q From 1947 up until the present time, have you devoted your full time to that department as a member of the Metropolitan Police Department?

A That is right.

Q And during the day, your working days, is the time devoted entirely to the study of fingerprinting and photographing and other tests?

A Our general work -- that is all we do. We have no other duties other than Identification Bureau work, which involves, as I said, general fingerprint work, which is quite a bit, too, from start to finish, and then we have photography work. We have our own laboratory and we take pictures. We not only take the pictures, but we process the pictures, and we have a laboratory for chemical tests.

Q Do you also test blood as part of your work?

A Yes.

Q From 1948 up until the present time, how many individual fingerprints would you say you had occasion to, we'll say, examine?

THE COURT: '47.

BY MR. McLAUGHLIN:

Q '47.

A Well, over a big period like that for me to think of a number, (200) I really don't think of it that way.

THE COURT: You have been there nine years; is that right, sir?

THE WITNESS: Yes.

THE COURT: How many do you examine in a week, on the average, sir?

THE WITNESS: Well, break it down to a day. I expect in a trek of duty, normally, for fingerprint work, perhaps an average of, say, ten a day, something like that, fingerprint cards of one form or another, from fingerprinting them to classying to filing. I think ten a day would be an average.

THE COURT: Throughout the nine years, sir?

THE WITNESS: Yes.

MR. TYLER: We will concede at this time, Your Honor, that he is (202) an expert.

JOHN B. SINGLETON (203)

resumed the witness stand, and having previously been duly sworn, was examined and testified further as follows:

THE COURT: You may proceed, Mr. McLaughlin.

DIRECT EXAMINATION (resumed)

BY MR. McLAUGHLIN:

Q All right, Officer Singleton, as a member of the Metropolitan Police Department, on November 10, 1955, did you have an occasion to go to a Euclid Street address?

A I did.

Q And after you arrived there, did you do anything while in the (204) garage at those premises?

A Yes, I did.

Q What did you do?

A I first took photographs.

Q I will show you Government Exhibits marked for identification 6, 7, 8 and 9 and ask you if those photographs were taken by you while in the garage of those premises?

A Yes, these are photographs I took.

Q All right, what else did you do while in the garage of those premises?

A I dusted with fingerprint dusting powder some various objects.

Q Can you recall what objects you dusted with the fingerprint (205) powder?

A Yes. In a small open closet -- it was a small room -- with no door on it, just a recess, there was an oil drum and two wooden covers. I later learned they were radiator covers, plywood.

Q I will show you Government Exhibit marked for identification No. 9. Does that photograph show the closet or place that you refer to?

A Yes.

Q Go ahead, what did you do?

A I dusted the two wooden radiator covers. The oil drum was too oily. I did examine it, however.

Q Did you examine any other objects in the garage besides those?

A Yes. There were several beer cans and several beer bottles and a match pad that were in the immediate vicinity, and they were checked.

Q As a result of the articles that you have enumerated as (205)
checked -- what do you mean by checking?

A Either by examining visually and, if it warranted, to dust and powder to bring out prints that I saw.

Q Will you explain, if you will, what you mean by the powder, how you applied the powder?

A Well, to bring out latent fingerprints or palm prints, we have several colored powders that are extremely finely ground, and with (206)
the aid of a camel hair brush, a small brush, we dip into the powder and get a small amount of the powder with the brush and then apply it to a surface where we may either see fingerprints or suspect that there might be fingerprints, and if there are fingerprints there, the residue left by the ridges of the fingerprints or palm, the residue left by the tops of the ridges stays on the surface, and you have the pattern of the ridges of the fingerprint left on the surface. Well, this residue holds the powder, and where there isn't any residue, there isn't any powder held. As a result, you have your pattern of the ridges as they were left on the surface that had been touched.

Q From those objects that you have examined in the basement of those premises, did you lift any fingerprints from any of those objects?

A I did.

Q How many fingerprints were you able to lift?

A Well, in all, I believe there were four or five. Let me see. There were five.

Q Five prints?

A They were not all fingerprints. Some were palm.

Q And do you recall from what objects you lifted the five (207)
prints?

A Yes. Three of the prints were from the beer cans and beer bottles.

Q And what were the other prints that you had lifted?

A And the other two prints were from the top of a radiator cover, which is shown in the picture, which was in this very small closet like room next to the oil drum.

(Government Exhibit 11 was marked for identification.)

BY MR. McLAUGHLIN:

Q I will show you Government Exhibit marked for identification No. 11, and ask you if that is the radiator covering that you referred to?

A It is.

Q Will you explain the position that you found Government (208)
Exhibit 11 as it was in that room?

A Yes. As I said, there was an oil drum and two radiator covers. This particular radiator cover was to the left and near the oil drum. So that this portion here (indicating), with the hole, would have been visible to the front as you were looking in, and that side there (indicating) would have been next to the oil drum, and the rear of this small room would have been at that end (indicating) and near the oil to this side, and that (209)
portion standing on the floor was also standing on the floor in the room.

Q Now, how many prints did you lift from Government Exhibit marked for identification No. 11?

A Well, I lifted two prints. It was actually lifted in sections of the same print. The one print I lifted, this one here (indicating), came from right here (indicating), and the other one came from across here (indicating).

(Government Exhibits 12 and 13 were marked for identification.)

BY MR. McLAUGHLIN:

Q Now, I show you Government Exhibit marked for identification No. 12 and ask you where that print was lifted from?

A That print was lifted from right here (indicating) -- let me see now -- right here, like this (indicating).

Q I show you Government Exhibit marked for identification No. 13 and ask you where that was lifted from? Turn around this way so the jury can see.

A That one was lifted from there like that (indicating).

Q I will show you Government Exhibit marked for identification No. 10. You are familiar with that exhibit; is that right?

A Yes.

Q And you have had that exhibit in your possession; is that (210)
right?

A Yes.

Q What else did you do while in the garage there at the Euclid Street address?

A In observing the immediate surroundings, there were some spots on the floor which appeared to be blood.

Q And where were those spots?

A They were in the immediate vicinity of this radiator cover (210) and the oil drum. They were on the floor.

Q Would that be in the open garage?

A No. It was behind -- if there were a door there on this opening, it would have been behind the door.

Q And that you are referring to Government Exhibit marked No. 9; is that right?

A No. 9, yes.

Q All right, and what did you do in reference to what you thought were blood spots at that time?

A I scraped the scrapings or the spots.

Q From where?

A From the floor, and carefully placed them in this little box. There are still some of the scrapings in here.

Q Getting back to Government Exhibits 12 and 13, in reference to Government Exhibits 12 and 13 that you have identified you lifted from the radiator cover, just tell us what process you went through, how did (211) you do it, to get Government Exhibits 12 and 13.

A Well, to repeat, I had the black powder, which would be the powder for a light surface, which that is a gray, a light colored surface, and with the camel hair brush and the powder, I applied it lightly over the area of this radiator cover, and as I explained, if there were prints on the box --

Q Just tell us what you did in this particular instance.

A I applied the powder over the area of the box here first, and as I did, a print came up, or the powder adhered to part of it, which I could see was a palm print. So I dusted it out carefully, and then with Scotch tape, I lifted the print. I applied the Scotch tape to the print, lifted it, and then put it on white photographic paper for a background.

Q Showing you Government Exhibits 12 and 13, have they got that adhesive on there?

A Yes. It is right here (indicating).

Q And that adhesive is the one you applied to the powder after you covered the surface of the radiator cap?

A Yes.

Q So that when you left those premises on November 10, 1955, did you have Government Exhibits 12 and 13 with you at that time? (212)

A I did.

Q And were they in the same condition as they are now when (212)
you left those premises?

A Other than that these have been handled some.

Q That is what I say. They have been handled; is that right?

A Yes.

Q Did you bring the other prints that you had lifted from the beer cans?

A Yes. They still are in my possession.

Q Where did you bring those prints that you had lifted from those premises on November 10, 1955?

A I brought them to the Identification Bureau.

Q And that is in Police Headquarters, Metropolitan Police Headquarters?

A Yes. It is on the third floor, in the Detective Bureau.

Q In reference to Government Exhibit marked for identification No. 10, did you make any comparison with Government Exhibits 12 and 13 that you had lifted from the premises with Government Exhibit marked for identifica- (213)
tion No. 10?

A I did.

Q What comparison did you make and how did you make it and with what print that was lifted from those premises?

A I used the customary procedure. I had the latent prints -- one in particular is an easier print to spot -- and I used that mostly.

Q No, what comparison did you make with Government 12 and Government Exhibit 10?

A I compared 12, which is the latent print, with the palm print, the left palm print of Exhibit 10.

Q How do you do that?

A Well, for a rough examination, you do it with just your (214)
regular, unassisted vision, and that part of it eliminates a lot. You can tell, for instance, the general formation, to see that that is there, and I did find that the general formation was there.

Q What do you mean by that?

A This particular print --

Q That is Government Exhibit 12. Refer to it by that.

A Exhibit 12 has a loop affair in the left palm. And using that as a guide, if there were no loop formation in the left palm, why, I need go no further.

Q Now the left palm of what?

A Of the palm prints. (214)

Q That is, Government 10?

A Yes. And I did see the loop formation. So then with the aid of a fingerprint glass, as we call them, a magnifying glass (illustrating), you compare the latent print with the palm print.

Q When you say the latent print, you are referring to what exhibit here?

A 12, and the palm print, 10.

Q Government Exhibit 10, all right.

Now you say you made a comparison.

A I did.

Q And after you made a comparison with Government Exhibit 12 (215) and Government Exhibit 10, did you come to any conclusion or opinion?

A I did.

Q And what conclusion or opinion did you come to?

A I concluded that the latent print and the palm print --

Q When you say the latent print, that is Government Exhibit 12.

A 12, excuse me. The latent print of Government Exhibit 12 and the palm print of Government Exhibit 10 were the same prints.

Q In other words, the print on the radiator cap was made by the individual whose prints are in Government Exhibit 10?

A Yes.

Q Now why did you come to that conclusion?

A Well, because the markings in the area of the left palm were the same in both instances as 10 and 12.

Q Let me stop you there. After you made the comparison or examination of Government Exhibit 10 and Government Exhibit 12, did you do anything with Government Exhibit 10 and Government Exhibit 12? In other words, did you enlarge or photograph --

A Yes. After I made the identification, which means that they were the same prints, made the same party, I then photographed the latent (216) print, No. 12, and I photographed the palm print, 10.

Q And have you got those photographs with you?

A I do.

Q May I see them, please?

A The negatives to the photographs are here (illustrating), and the enlargements are there.

Q Now I see two photographs. I will mark this as Government (216)
Exhibit for identification 14.

THE CLERK: Government Exhibit 14 for identification.

(Government Exhibits 14-A and 14-B were marked for identification.)

BY MR. McLAUGHLIN:

Q Showing you Government Exhibit for identification No. 14, I will ask you in regard to that, just explain what that is, will you?

A Well, there are two photographs marked A and B.

Q What does photograph A represent?

A Photograph A is the enlargement of the latent print or Exhibit 12.

Q That is the print that was lifted from the radiator covering?

A Yes.

Q What does the picture B represent?

A B is the photograph of the palm print from Government (217)
Exhibit 10, the left palm.

Q Have you made other copies of those?

A I have.

Q A reproduction of the same thing?

A Yes.

Q May I have some of them, please?

A These are the negatives for these, and they are extra copies of this, or they are copies of this.

MR. McLAUGHLIN: If Your Honor please, at this time, Your Honor, I am going to ask this witness to explain as to why he says that these prints are the same. I have some photographs here, and I wonder if I could hand them to the jury so that they could follow the police officer as he testifies.

MR. TYLER: Are all of the photographs the same?

MR. McLAUGHLIN: Identical.

THE COURT: Is that a fact?

THE WITNESS: Yes. There is only one thing. There are two photographs here and there are two sets of copies. One is with lines and one is without lines.

THE COURT: Mr. McLaughlin, you and all the counsel get together and make sure we all are talking about the same ones, please.

BY MR. McLAUGHLIN: (213)

Q These are the ones you are talking about; is that right?

A Yes. They are the ones with lines. (218)

Q All right, this is the only one we are talking about.

A Right.

A Fingerprints and palm prints. (219)

Q Now you expressed an opinion that the prints on the radiator cover were made by the same individual whose prints are in Government Exhibit 10; is that right?

A Yes.

Q All right, what do you base that opinion on?

A The opinion is based upon the sameness of the characteristics or hand marks or ridges being the same.

Q Now point out that sameness that you refer to in Exhibit A and Exhibit B there on that photograph.

A Well, I think we can start with one and see that in A and B, in approximately the same area, we have a ridge ending, which means the ridge stops. Then by counting down 1, 2, 3, 4 ridges, we come to another ridge ending, which is Point 2, which is the same in both latent and palm prints. By counting over 1, 2, 3, 4, 5, we have a break or two endings of ridges, leaving a space, which occurs again both in the latent print and the palm print. By coming down 1, 2, 3, we come to Point 4, another ridge ending, which occurs in both the latent and palm prints.

Now by following the ridge 4 down, we come to a Point 5 just to the left. By following Point Ridge down, we come just to the left of there, Point 5, which is a ridge ending appearing again both in the latent and palm prints. Then by coming down into the right, counting 1, 2, 3, 4 ridges, we come to a bifurcation, which means a ridge going off into two ridges.

Then by following the lower portion of Point 6 down and to the right of it, we come to Point 7, which is a ridge ending, which also appears both in the latent and the palm prints. Now, 8 will be to the top and to the right, and that is a ridge ending. I believe you can see that it is the same ridge ending in both cases. To bring that out, if you go up two, you will see another ridge ending which isn't numbered, but it helps locate Point 8, but there is a bend in the ridge in between.

Now coming down to Point 9, if you will use Point 4 as a starting point, we will count 1, 2, and come to a ridge ending, which is in both the latent and the palm print. Ridge 10, by dropping down to 3 ridge, we come to the ridge ending of a small ridge there, which again appears in both the latent

and palm prints. As you can see, in this particular Point 10, there (220) is also another ridge ending -- the other end of that short ridge which isn't numbered. There are a great many other points of identification which could have been numbered which were not numbered. Dropping down from Point 10, 1, 2, we come to a ridge ending, if they want to, counting ridges, which again appears in both the latent and palm prints. Ridge 12, by using Point 7 there, we can arrive at 12. Follow the ridge around to the left of Point 7. It curves around, and counting 1, 2, we come to a ridge ending again, (221) which appears in both the latent and palm prints.

Point 13, by crossing over to the left and above, we find a little island almost. It is a very short ridge, and the lower left portion of it is marked Point 13, which appears again in both the latent and palm prints. Point 14, by counting down to the second ridge, we come to a ridge ending, which appears in both the latent and palm prints.

Now there are innumerable other points which might be numbered which are not numbered and which for court presentation it is not customary to number more than 10 or 15 points.

Q Now, I believe you said you also took some scrapings from the floor that you thought was blood.

A Yes, placed them in this small box. I at that time put the date on it and initialed it.

MR. McLAUGHLIN: Will you mark this Government Exhibit 15?

Q Showing you Government Exhibit marked for identification 15, Officer, I will ask you, what did you do, if anything, to the blood spots (222 or spots that you thought were blood on the floor in that garage on that particular date of November 10, 1955?

A I scraped the spots and carefully placed them into this small box.

Q That is, Government Exhibit marked for identification 15?

A 15, that is correct.

Q At the time you left those premises on November 10th, did you have Government Exhibit 15 with you?

A I did.

Q And where did you go with it and what did you do with it?

A I returned to the Identification Bureau and I went back to our laboratory and checked --

MR. HARRIS: Objection, Your Honor. We admit his qualifications as to fingerprints. I don't recall him being qualified as a chemist.

THE COURT: Do you want to proceed further with this? (222)

MR. McLAUGHLIN: I started to ask him those questions, Your Honor, when they conceded.

THE COURT: I know you did. I got the same impression, but you may have limited it to fingerprints.

MR. HARRIS: Fingerprints.

THE COURT: That is all right. (223)

VOIR DIRE

By MR. McLAUGHLIN:

Q All right, as a member of the Bureau of Identification of the Metropolitan Police Department, over the period of time that you were employed there since 1947 up until the present date, was it part of your duties to examine exhibits for blood?

A Yes.

Q How many times over that period of years would you say that you have done that as part of your work?

A Well, I think a very conservative estimate would be once a month. It has oftentimes been many more times than that.

Q And to qualify yourself to perform those duties, how have you qualified yourself to perform those duties for the inspection or examination of alleged blood from exhibits?

A Well, first of all, I was instructed by Lieutenant Bohannon, and read the texts that dealt with the tests that we were using, and then performed the tests.

Q From your reading on this subject, are there certain tests that are known for the examination of blood?

A There are.

Q And how many different kinds of tests are there?

A There are a good many tests. Of the tests, we do not use them (224) all.

Q How many tests would you say that you have used as a member of the Metropolitan Police Department?

A We use four tests, and they are chemical reaction tests -- color reaction tests.

Q And are those tests that you use recognized tests by the authorities?

A They are.

Q You say that you have examined for blood on the average of how many times a month?

A I would say a safe figure would be once a month, although (224)
there have been many times when it would run much higher than that.

Q And what test or tests do you use in examination?

A We use the chemical color reaction test known as the benzidine test, the malachite test, the phenolphthalein test and the luminal test.

Q If you will, explain what each one of those tests are and what you do and what is the reaction.

A Well, these are tests that have been developed by other chemists and have been accepted as being tests which indicate the presence of blood. They do not show the cell structure of the blood or anything like that. They are tests that turn a reagent a certain color if the test is positive.

We use four tests, because it has been found that each of the (225)
tests has other things that also give a positive reaction to other than blood. But from the authority of Kirk and two associates at the University of California, who devised the four-test method, and I have the book with me that cites the case, they are on record as saying that the four positive tests, being different tests, have certain things that will give reactions positive to blood and other things than blood, that each has its own things that will react and give a positive, but none, as far as they know, will give a positive to all four tests and not be blood. That is why we use four tests rather than one test. One test, the benzidine test, milk and some other, gives a positive reaction; the luminal test, copper and fruit juices -- and various other things with other tests. But the authority that we have is Kirk and his associates, who have done research and come out with this four-test chemical reaction method, and their claim is, as far as they know, that a positive with the four tests has never been known that it wasn't blood. It indicates blood. They don't say it is blood. It indicates that it is blood. The serologic tests we don't do, and it doesn't enter into this discussion here.

Q As such, have you testified in District Courts here in the District of Columbia?

A I have.

Q And expressed an expert opinion as to whether it is blood (226)
and the subject of blood?

A I have.

MR. McLAUGHLIN: Do you want to ask him anything?

MR. HARRIS: No, thank you, it is all right. That is as to blood? (226)

MR. McLAUGHLIN: Yes, sir.

MR. HARRIS: I gather he is not going to testify as to types?

MR. McLAUGHLIN: No, just that it was blood.

CROSS EXAMINATION (227)

BY MR. TYLER:

Q Now, sir, it is a fact as we understand from the testimony that the benzidine, the malachite, the phenolpthalein and the luminal tests all give positive reactions to chemicals other than blood:

A That is correct.

Q It is also true, sir, in response to our question a moment ago, that it does not indicate whether it is human blood or animal blood?

A That is correct.

Q Would I also be correct in saying, sir, that this test in no way enables you to identify this blood as coming from any particular person?

A No, you are correct.

Q Would I also be correct, sir, in saying that this test does not, generally speaking, allow you to specifically identify the length of time it has been there?

A You would be correct, it does not. (228)

Q Would I also be correct in saying, sir, that there is a probability that a positive reaction on all four of these tests -- there is a probability that it may react to something positive other than blood?

A No.

THE COURT: Did you mean in combination or separately?

MR. TYLER: In combination.

THE WITNESS: You would be wrong.

BY MR. TYLER:

Q Did I understand you to say in your direct examination that in these tests, they were careful to use the terminology that they indicate that it is blood?

A That is correct.

Q Would you explain to us, sir, why they prefer or elect to use the term that it indicates it is blood rather than that it is blood?

A All four tests are considered indicative tests. They do not show cell structure of the blood. They do not show the components of the blood.

They are all color reaction tests, chemical color reaction tests, and (228)
each test in itself is an indicative test. But as I stated, Kirk and his associates, who are recognized authorities on the subject, have concluded that one test by itself is not sufficient, and for that reason they (229)
have introduced into a technique of chemical color reaction tests not one test by itself, nor two, but the four tests. And their conclusion is that if you get a positive reaction with all four tests, then that they know of nothing else that will give a positive reaction other than blood to all four tests.

THE COURT: Is there any recognized number of similar points as being (230)
conclusive of the fact that one print is the print of the other?

THE WITNESS: Your Honor, in my reading of the literature, it has been my opinion for demonstration purposes that 10 to 15 points were the usual number to demonstrate.

Q Did you find any other prints on this? (235)

A Yes, you could see it. I found some other marks. Outside of this here, it was the only one of value. Now there were other places where the powder adhered. I examined all these places, and none of these prints were of value. By that I mean they did not have the quality, the definition that is necessary to make an identification. Only the prints that I stated were useful. The other prints did not have the definition which would be needed, the clearness and all, to identify with a known print.

Q Well, were these other prints fresh prints, sir?

A Well, yes. For instance, you can see still there in front (indicating). Now the powder had adhered to some places. It adhered very well.

Q So that actually, there is a possibility, then, that there may have been one or more persons there approximately at the same time on (236)
the basis of freshness?

A Well, I don't know. I wasn't able to say whose they were.

Q Let's put it this say: You could not exclude that possibility on the basis of the evidence you had available?

THE COURT: As to those others?

MR. TYLER: As to those others, yes, sir.

THE WITNESS: That could be. I don't know whose they were.

BY MR. TYLER:

Q Now let's get to those beer cans. I believe you stated that you found prints on the beer cans.

A Yes. I have them here.

Q Were they the prints of what you would identify as this (236) defendant's?

A No, they were not.

Q Were those prints fresh prints, sir?

A Well, these dusted up fairly well. They were probably fairly recent, yes.

Q Would you say as recent as the prints which you have identified as the defendant's?

A Well, within a reasonable comparison, yes. They were fresh prints: otherwise, as I stated before, if the print isn't of any value, there is no point in preserving it, and the prints were of such quality that I did (237) preserve it.

Q So that we might conclusively say, then, that there was someone else there either at that time or in the immediate time as this defendant, according to the prints, then?

A The beer cans, of course, were in the area, and I don't know where they came from or how they got there.

Q No, sir, that is not my question. I say, on the basis of the freshness, we can definitely conclude that there were other persons in there around or at approximately the same time?

A I can't conclude. I could say it might be possible.

Q Now we have already been told that the prints were different prints.

A Yes, but only on the beer cans, which may have been thrown there out of a car that is parked in the garage. It is a garage. There are many cars.

Q I believe you stated, sir, there were other prints on this object also.

A But I don't know that those prints were not the prints of Coleman. I am not able to say whose they were. The quality is not there for me to be able to say.

REDIRECT EXAMINATION (251)

BY MR. McLAUGHLIN:

Q With regard to your testimony, Officer, you just went there on that particular day; is that right, November 10th?

A Yes, sir.

Q And you described the finger or palm print as you found on this (indicating)?

A Yes, sir.

Q Where this thing was on November 9th, you have no knowledge? (251)

A No.

Q Or under what circumstances it was made; is that right?

A That is right.

Q The only thing you know, you found the print there? (252)

A That is correct.

Q In regard to the print, Government Exhibit 12, which you lifted from this, you say it was a fresh print?

A It appeared to me to be fresh, yes.

Q In other words, it could have been a day old; is that right?

A Yes.

MR. McLAUGHLIN: That is all.

MR. TYLER: Or two days old or three days old?

THE COURT: I don't think you need go into that. He has answered you several times. Is that all you have?

MR. TYLER: Yes.

PAUL RENE BIDEZ

was called as a witness by and on behalf of the Government, and after having been duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. McLAUGHLIN:

Q What is your name?

A Paul Rene Bidez (253)

Q Where are you employed?

A I am employed in the laboratory division of the Federal Bureau of Investigation.

Q And how long have you been so employed?

A I have been in the laboratory division since 1949. I worked with the FBI since the summer of 1947.

Q And since 1949, while working in the laboratory for the Federal Bureau of Investigation, what have youmore or less specialized in, what kind of work.

A My field consists of the examination and identification of blood and other body fluids, as well as the miscroscopic examination of hairs, fibers and other related evidence.

Q And what has your education been to quality you for that position?

A I received a B.S. degree from Alabama Polytechnic Institute located at Auburn, Alabama, in chemistry and chemical engineering, following which I

did approximately a year and a half analytical chemistry for the State (253) of Alabama. This was prior to my entry into the FBI. After I entered on duty with the FBI and was transferred into the laboratory, I went through an extensive training program within my own particular field. I worked under the supervision of other qualified experts until it was deemed that I was an expert on my own. I have also done some research in the field of serology.(254)

Q While employed as an agent for the Federal Bureau of Investigation, have you testified in the Federal courts throughout the country as an expert?

A Both in State and Federal courts, yes, sir.

Q And would you say that was few or many times?

A That would be many. It would probably be somewhere between 80 and 100 times.

MR. HARRIS: Did he say serology?

THE COURT: That is right.

MR. HARRIS: We recognize him.

BY MR. McLAUGHLIN:

Q I will show you, Mr. Bidez, Government Exhibits marked for identification 1-Q, 3-Q and 4-Q, and ask you if they have been in your possession prior to today?

THE COURT: What were the numbers, please?

MR. McLAUGHLIN: 1-Q, I think, and 3-Q and 4-Q.

THE COURT: Thank you.

THE WITNESS: Three specimens.

BY MR. McLAUGHLIN:

Q Three.

A Yes, sir, they have been.

Q And they were turned over to you by whom, do you recall?

A By Detective Yuter on November 15, 1955.

Q After those exhibits that I have enumerated were turned over (255) to you, did you make an examination of them?

A I did.

Q And what examination did you make, we'll say, of Government Exhibit 1-Q or Q-1?

A I examined the pair of panties for the presence of blood stains and seminal stains.

MR. TYLER: Pardon me, was that blood stains and what other kind of stains?

THE WITNESS: Seminal stains.

I found both blood stains -- well, actually, I found one stain (255) that contained a mixture of blood and semen. I verified the presence of semen in the stain by microscopically identifying the male reproductive cell, spermatozoa, in the stain, which, of course, is a positive proof of the presence of semen.

BY MR. McLAUGHLIN:

Q Now, in regard to Government Exhibit Q-3?

A On Government's Exhibit Q-3, I found, once again, both blood stains and seminal stains. I made serological tests on the blood stains and found that they are of human origin, that the blood is human blood, and, of course, the seminal stains were also human seminal stains.

Q Now, in reference to Government Exhibit Q-4?

A Q-4, I also found both blood and seminal stains on the the (256) coat. The blood was of human origin.

MR. McLAUGHLIN: I believe that is all I have to ask.

MR. TYLER: I have no further questions. (259)

MR. McLAUGHLIN: That is all I have. May this witness be excused, Your Honor?

THE COURT: Yes, sir, you are excused.

MR. McLAUGHLIN: May it be final? I understand he has to go to Montana on Monday.

THE COURT: I understand you gentlemen are through with him?

MR. TYLER: Yes.

THE COURT: You are finally excused.

Thereupon --

JOSEPH STANCZAK

was called as a witness by and on behalf of the Government, and after having been duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. McLAUGHLIN:

Q Officer, your full name is what?

A Private Joseph Stanczak.

Q You are a member of the Metropolitan Police Department?

A That is correct.

Q Assigned to what precinct?

A 13 Precinct.

Q 13 Precinct is located where? (260)

A 910 U Street.

Q What section of the city?

A Northwest.

Q Did you have an occasion to arrest the defendant in this case?

A I did.

Q Can you recall when you arrested the defendant?

A It was between 2:00 and 3:00 a. m. on January 15th, this year, 1956.

Q After the defendant's arrest, where did you bring him to?

A No. 13 Precinct.

Q What time would you say you arrived at No. 13 Precinct?

A Just before 3:00 a.m.

Q And that would be what day of the week, do you recall?

A January 15, 1956.

Q That is the date. The day of the week; can you recall whether it was Sunday, Monday, Tuesday?

A It was either on a Saturday or a Sunday morning -- Sunday morning, I am positive.

Q Was that the last time you saw him after you brought him to No. 13 Precinct at that time?

A I saw him Sunday in the lineup at 12:00 noon at Police (261) Headquarters.

Q Did you talk to him at that time?

A I did not.

MR. McLAUGHLIN: I believe that is all I have of this witness, Your Honor. May we approach the bench before you ask him, so we'll play safe?

(At the bench:)

MR. McLAUGHLIN: The only thing, I just want to warn him, Your Honor, this officer locked this man up on an assault with a dangerous weapon case. So I am just warning him about, you know, if they want to go after him.

MR. TYLER: Yes, I was aware of that. That is the only difficulty with this particular witness here. We are aware of that.

THE COURT: Let's go off the record a minute.

(Off the record.)

(In open court:)

MR. TYLER: Your indulgence, Your Honor.

THE COURT: Yes, sir.

CROSS EXAMINATION (261)

BY MR. TYLER:

Q Detective Stanczak, when you arrested this man, was it pursuant to a charge of rape?

A It was not. (262)

Q When you arrested this man, did you have any knowledge of a charge or a lookout for a rape?

A I had.

MR. McLAUGHLIN: I object to this, if Your Honor please.

THE COURT: I think he has answered.

BY MR. TYLER:

Q Your answer, sir, was you had?

A Yes, sir.

Q But you did not arrest this man pursuant to that knowledge?

THE COURT: He said he arrested him, not for rape.

BY MR. TYLER:

Q Not for rape?

A No, sir.

Q Now, did you book him on a rape charge, sir?

A I did not.

Q One more question. Did you ask him any questions concerning a rape, concerning this rape here, this alleged rape here?

A I don't think I did.

MR. TYLER: No further questions.

CHARLES A. MACKIE (263)

was called as a witness by and on behalf of the Government, and after having been duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. McLAUGHLIN:

Q Officer, your full name is what?

A Charles A. Mackie.

Q And you are a member of the Metropolitan Police Department?

A Yes, sir.

Q Assigned to any particular squad or detail?

A The Sex Squad of the Detective Bureau.

Q Were you so assigned on January 15, 1956?

A Yes, sir.

Q On that date of January 15, 1956, did there come a time when you saw a person identified to you as Charles Coleman? (263)

A Yes, sir, I did.

Q Do you see that Charles Coleman in court today?

A Yes, sir.

Q Will you point at him, please?

A He is seated next to the two defense counsel in the light sport shirt (pointing). (264)

Q When did you first see the defendant Charles Coleman on January 15, 1956?

A I first saw him about 2:30 p.m.

Q Where was he at the time that you first observed him?

A In the Robbery Squad office.

Q Did you talk to him at that time?

A I did not.

Q Did there come a time after you first saw him in the Robbery Squad when you did have an occasion to talk to him?

A Yes, sir.

Q When and where was that?

A That was about 3:45 p. m., in the Sex Squad office.

Q And at the time that you talked to him in the Sex Squad office, who was present?

A Detective Yuter was there, Lieutenant Sullivan, and there were others in the office that were not actually taking part in the questioning.

Q When you say "others in the office," were they in this particular case or were they just around about the office?

A Just routine duties in the office.

Q You mean regular routine work, not on this case?

A Yes, sir. (265)

Q Now at that time, when you talked to the defendant in the sex Squad office, was there a person present by the name of Miss Hood?

A No, sir.

Q Had you done anything prior to seeing the defendant in the Sex Squad office in reference to a Miss Hood?

A Would you repeat the question, please?

Q I say, at the time that you say you saw the defendant in the Sex Squad office and Officers Yuter and Sullivan were present, at that time, was a Miss Hood present --

A No, sir. (265)

Q -- at Police Headquarters?

A No, sir.

Q Had you done anything in reference to Miss Hood prior to seeing the defendant in the Sex Squad office?

A Not to my knowledge, no, sir.

Q When you say the defendant in the Sex Squad office, did you talk to him at that time in regard to this alleged rape case of Miss Hood?

A Yes, sir, briefly.

Q What conversation did you have with him at that time in reference to the rape of one Miss Hood?

A We told him that his fingers, that his prints had been found at the scene of this assault and robbery, and he replied that he hadn't (266) raped anybody, hadn't robbed anybody. And we questioned him along those lines briefly, and he continued to say he hadn't raped anybody and hadn't robbed anybody.

Q How long would you say you questioned him at that time?

A About twenty minutes.

Q All right, what happened at the expiration of the twenty minutes?

A He stated that he was willing to take a lie detector test, that he was innocent of this.

Q All right, and what was said or done in regard to that?

A We then contacted Sergeant McCarthy of the General Assignment Squad.

Q How were you able to contact Sergeant McCarthy?

A I didn't do that personally. When I saw Sergeant McCarthy, I saw him in person down there and talk to him about it.

Q Was he in the building at the time, when you say the defendant said something about lie detector test and you say McCarthy was contacted?

A Yes, sir, he was.

Q Was it necessary to bring him from some other place or was he in the immediate building at the time?

A I don't know whether he was in the building or was at home (267) at that time.

Q After you had this conversation with the defendant, what period of time elapsed before you saw Sergeant McCarthy?

A Oh, I would say about twenty-five minutes.

Q When you say twenty-five minutes, what time of the day would that be, approximately?

A Sergeant McCarthy came around to our office about 4:20 p.m. (267)

Q 4:20?

A Yes, sir.

Q You say "around to our office." What office do you mean?

A That is, the Sex Squad office.

Q Do you know where Sergeant McCarthy had come from?

A No, sir, I don't.

Q When Sergeant McCarthy came around to your office, do you know or did you know at that time where the defendant was?

A Yes, sir. He was in the Sex Squad office.

Q With you?

A Yes, sir.

Q And when Sergeant McCarthy came around to the office, what happened then?

A Well, Sergeant McCarthy and the defendant and myself went to (268) Sergeant McCarthy's office in the General Assignment Squad, where Sergeant McCarthy had certain forms to make out and routine questions that he asked the defendant.

Q Asked the defendant here?

A Yes, sir.

Q How long did you remain in the presence of the defendant and Sergeant McCarthy?

A Fifteen or twenty minutes.

Q And after the fifteen or twenty minutes, then where did you go or what did you do?

A I went back to the Sex Squad office.

Q How far were these offices apart that you are talking about?

A About 150 feet.

Q On the same floor?

A Yes, sir.

Q When you went back to your office, did you have an occasion to see Officer McCarthy or the defendant Coleman again that day?

A Yes, sir. I went back to the General Assignment Squad about 7:15 p.m.

Q And what was the occasion for you going back to the General Assignment Squad?

A Miss Hood had been located at that time.

Q When if you know, had any word been sent out to locate Miss (269) Hood?

A They had been trying off and on during the afternoon to get (269) hold of her, and they learned that she was somewhere in Maryland.

Q When you say you went back to the General Assignment office, is that where Sergeant McCarthy's office is?

A Yes, sir.

Q When you went back there at that time, what time of the day would you say that was?

A About 7:15 p. m.

Q Was the defendant present that time?

A Yes, sir.

Q Who else was present besides the defendant?

A Sergeant McCarthy.

Q Had Miss Hood appeared upon the scene at that time?

A No, sir, but we learned she was on her way in.

Q When you went back to where the defendant was with Sergeant McCarthy, did you question him further or have any conversation at all with him in reference to the rape of Miss Hood?

A No, sir.

Q Then how long did you remain there?

A Well, we took him to the show up room in Police Headquarters. That is on the same floor.

Q When you say the show up room, you mean what?

A The lineup room. (270)

Q And the lineup room in headquarters is located where in reference to the General Assignment office, where the defendant was?

A The General Assignment office is on the east end of the building and the lineup room is on the west end, on the same floor.

Q On the same floor?

A Yes, sir.

Q What time would you say you brought the defendant down to the lineup room?

A Around 7:30 p. m. The lineup was at 7:35.

Q Who conducted the lineup?

A I did.

Q Just tell us, if you will, how you conducted the lineup.

A Well, we had a five-man lineup. The defendant was No. 4 from the left.

Q Just explain to the jury, if you will, the working of the lineup room.

A Well, in this case, the five men were in the back room (270) preparatory --

Q The back room is located where?

A Well, it is a room in more or less the rear of the stage.

Q All right, now look at that wall there (indicating). Do you (271) see that wall --

A Yes, sir.

Q -- and this jury box? Now explain to this jury as to how that lineup room is located, describing the back wall and the lineup, that is, the platform, and where the individuals come from to appear on the lineup and where they are viewed, where the public is that views them.

A Well, there is a screen wire that runs in front of the stage. The men come out of a room, looking from the front, on the right. They file out of that onto the stage, and the person viewing the lineup would be sitting out in front of the screen.

Q Is there any particular significance of that screen, the make of it?

A It is a mesh screen.

Q I mean, can the prisoners see out --

A Yes, sir, they can see out.

Q -- and distinguish the public?

A But the lights are shining more on the people in the lineup, on their faces.

Q And what is on the back wall as the prisoners walk out?

A There are lines there indicating the height of the person and also several numbers along the wall for different places. (272)

Q Tell us how you operated this particular lineup on January 15th of '56.

A At this time, I went back into the room in the rear of the lineup, of the stage, and told the defendant to take any place in the line that he wished, that he could stand at any place. As I recall, he was in the No. 4 position at that time and said he would remain in that position.

Q How many men were in the lineup?

A Five.

Q All right, go ahead.

A And the complaining witness, Miss Hood, was in the front when the men came out onto the stage.

Q All right, go ahead.

A And at that time she said that the defendant or, rather, (272) first, the men were all asked to give their names and their ages and to say several things, and after this, the complaining witness stated that the defendant had the same facial features and the same voice as her assailant.

Q After the lineup, did there come a time when the men were finally taken off the platform, the defendant and the other four?

A Yes, sir.

Q All right, and then what happened?

A Well, it was about 8:35 p. m., the complaining witness con- (273) fronted the defendant in the Sex Squad office.

Q You say "confronted." When and where and how did she confront him after the lineup?

A It was in the Sex Squad office, as I say, about 8:35 p. m. The complaining witness was there; Dr. Purse was there, Detective Yuter and myself, and the defendant, and she repeated the allegations to the defendant.

Q All right, and what did the defendant say, if anything, at that time?

A He said that he was innocenct, that all he done was write a few numbers.

Q How long did that take place?

A Seven to ten minutes.

Q And what happened after that?

A After that, Sergeant McCarthy sat in the back of the Sex Squad office. The complaining witness was requested to sit in the outer office. That is all part of the same office, but there is a partition more or less separating the front part from the rear. Sergeant McCarthy talked to the defendant for ten, possibly fifteen minutes at the most. He then came to us and said that the defendant wanted the complaining witness --

MR. HARRIS: This is --

BY MR. McLAUGHLIN:

Q Officer McCarthy then came to you and said something to you? (274)

A Yes, sir.

Q All right, and at that time where were you?

A I was right very close to the defendant, had come into the back part of the room.

Q And as a result of what Officer McCarthy told you, then what happened next?

A I brought the complaining witness into the rear of the Sex Squad office again.

Q And when you brought the complaining witness, you mean Miss (274)
Hood?

A Yes, sir.

Q When you brought her back in that particular part of the office, who was there?

A Sergeant McCarthy, Detective Yuter, Dr. Purse and myself and the defendant.

Q What happened when you got back there?

A The defendant said at that time that he remembered her, he was sorry that this thing happened. He said that he remembered the night, that he was walking near this white building at 15th and Euclid. He saw the complainant drive into an alley with a Studebaker automobile and that she turned in the garage under the building. He said that he followed her into the building, and when she got out of the car, he grabbed her from behind and dragged her into this recessed area, he said, which was near the steps. (275)
He said he took her billfold and there was a conversation. He said he needed money to pay his room rent and that he got four dollars from her but that he got the billfold and the shoes and brought them back to him — to her, rather, that she said all her identification was in her wallet, she wanted it back.

He said that when he first brought her into this place, that they had a conversation there and she told him that she had been out to dinner and that was all the money that she had, and that he said he left this garage and went to his father's home in the ten-hundred block of Euclid Street, and he needed six more dollars to pay his rent, but he said that he never told his father what he had done that night.

Q Was there anything else said by him at that time that you can recall and have a present recollection?

A No, sir, I don't recall anything else at this time.

Q Was there anything said by him with reference to his pants that you can recall?

A Oh, he did say something during this confrontation, that there was a question of some spots at the scene which appeared to be blood, and he said that he was on his knees in the recessed area and that he kneeled on the side of the head of a tack and that he cut his knee and that was the reason for these spots being at the scene.

Q Did he say anything at that time as to whether or not he had (276)
sexual relations with Miss Hood or attempted sexual relations with Miss Hood?

A He said he didn't remember anything about molesting the (276)
complainant sexually.

THE COURT: I didn't hear that, sir. He did not remember --

THE WITNESS: He said he did not remember anything about molesting the complainant sexually.

BY MR. McLAUGHLIN:

Q Now, during the entire time when you were present in the presence of the defendant or Miss Hood, was there anything said by you or any members of the police who were present, or Miss Hood, as to the type of automobile that she was driving?

A No, sir, that had not been mentioned.

Q So that the only one that mentioned that was the defendant himself?

A Yes.

Q Was there anything else mentioned by the defendant that was not mentioned by any of the police or Miss Hood in his presence?

A Yes, sir. That was the thing about the dinner, that she had been out to dinner. The complaining witness had not mentioned that, nor in my presence had any policeman mentioned that.

Q To the defendant? (277)

A Yes, sir.

JAMES K. McCARTHY (293)

was called as a witness by and on behalf of the Government, and after having been duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. McLAUGHLIN:

Q Officer, your full name is what?

A James K. McCarthy.

Q And you are a member of the Metropolitan Police Department?

A Yes, sir.

Q Calling your attention to, I believe, January 15, this year, 1956, did there come a time when you saw a person identified to you as Charles Coleman?

A Yes, sir.

Q Do you see him in court here today?

A Yes, sir.

Q Will you point at him, please?

A With the gray shirt, near the end of the table (pointing). (294)

Q On January 15, 1956, when was it you saw the defendant (294) Coleman for the first time?

A Shortly after 4:00 p. m. of that day.

Q Where was the defendant at that time?

A In the squad room of the Sex Squad, Detective Bureau.

Q Did you have any conversation with him at that time in regard to the rape charge of Miss Hood?

A Yes, sir.

Q Can you recall what that conversation was, what you said and what the defendant said, if anything?

A He stated to me that he would like to take a lie detector test to show these officers, speaking of Sergeant Mackie and, I believe, Detective Yuter, that he had nothing to do with this case, and he would like for me to conduct a test and show them that he didn't have anything to do with it.

Q And after that, what happened?

A I did conduct a test shortly thereafter.

Q At the time that you conducted the test, whereabouts in Police Headquarters was that?

A That is on the third floor of the building, the west side of the outer office No. 3034 in the Detective Bureau.

Q How far is that from the Sex Squad office?

A It is roughly half the length of the building. (295)

Q Is it on the same floor as the Sex Squad office?

A Yes, sir.

Q Now at the time that you say you talked to the defendant at that time, did you have information as to the rape case in regards to where Miss Hood was the complaining witness?

A Yes, sir.

Q Who did you receive that information from?

A Sergeant Mackie, and I believe Detective Yuter entered into that conversation also.

Q Do you recall, Officer, whether or not in that conversation (297) at any time that afternoon with the defendant that you had mentioned to him that Miss Hood was driving a Studebaker automobile?

A No, sir.

Q During any of the conversation that you had with the defendant that afternoon, do you recall ever telling him that the person who raped and

robbed Miss Hood was told by Miss Hood that she had been out to dinner (297) that night?

A No, sir. I wasn't aware of it myself.

Q With regard to the lie detector test, where was that given (298) to the defendant?

A That is an office which is entered first into Room 3034, that being the squad room of the General Assignment Squad. On through to the rear of this office is a door entering a small hallway. This conference room partition divides the conference room from the General Assignment Squad office.

Q How much time would you say you spent with the defendant in that particular room?

A From about 4:20 p.m. until about 7:15 or 7:20 p.m.

Q And what did you do with the defendant after that?

A After 7:20, or about that time, the defendant was taken from this office to the Detective Bureau squad room at the opposite end of the building, the northwest corner, on the same floor.

Q And after you talked to the defendant, did there come a time when you saw Detective Mackie and Detective Yuter?

A Yes, sir.

Q Where were they?

A They came back to the office adjoining the general squad (299) room and for the purpose of taking the defendant to the Detective Bureau Squad room.

Q Did you talk to Detective Mackie at that time?

A Yes, sir.

Q After Detective Mackie came to the room, did there come a time when you saw the defendant in the Sex Squad office?

A Yes, sir.

Q When was that?

A After leaving the Detective Bureau squad room, he was taken back to the Sex Squad office.

Q And at the time that you went to the Sex Squad office, who was present, if you can recall, besides the defendant?

A Sergeant Mackie, Detective Yuter, Miss Hood, Dr. Purse -- I believe that is the correct name -- and myself.

Q While you were in the Sex Squad room, did there come a time in your presence when Miss Hood talked to the defendant?

A Yes, sir. (299)

Q And how long would you say that Miss Hood talked to the defendant at that time?

A Possibly five to ten minutes.

Q Whereabouts in the Sex Squad office did Miss Hood talk to the defendant?

A That was at the rear of that office, the east end, near the (300) lieutenant or the charge officer's desk. In other words, you enter from the hall, walk inside and all the way to the extreme end of that office in the back.

Q After Miss Hood talked to the defendant at that time, what happened to the defendant?

A He continued sitting as he was during that time in the same place.

Q And how long would you say that he sat there in that position.

A To my knowledge, to a short time after 9:00 p. m.

Q At that time, were you in the presence of the defendant Coleman?

A Part of that time, sir.

Q Did there come a time after Miss Hood talked to the defendant when you were alone in thepresence of the defendant Coleman?

A Yes.

Q Just tell us how that came about.

A Miss Hood had left the immediate presence of the defendant and walked out and was seated near the door leading out into the outer corridor, which was out of sight of the defendant, and I talked with him for ten or fifteen minutes, just before 9:00 o'clock, and he stated that before she left the building, that he would like to talk with her once more.

Q And what happened when the defendant made that request? (301)

A I walked to the outer office and requested that Miss Hood come back, that he wished to talk to her again.

Q And did Miss Hood come back to where the defendant was?

A Yes, sir.

Q All right, and what happened when Miss Hood came back to where the defendant was?

A The defendant stated to her that he was very sorry for what happened and wished to apologize to her, and there was some compliment as to her conduct or behavior toward him. I don't recall the exact wording.

Q Can you give us in substance what you mean by that?

A The meaning of it was that he appreciated her manner of (301) talking to him and so forth. That is what it meant to me.

Q Talking to her when and where?

A The previous conversation which took place roughly about 8:30.

Q Do you recall anything else he said to her at that time when he was confronted by her at his request? Did he say anything as to what happened in that garage?

A Yes, sir.

Q What did he say?

A He stated that he was walking or standing on the street near (302) a white house, as I recall, and that he observed a car drive in the alley -- I believe he stated at that time a Studebaker automobile -- and that he had walked across the street and into the basement of this building, following her, that he did take some money from her, and I believe he stated it was four dollars in money, and that he needed the money to pay his rent. There was something in the conversation about his needing money for rent, that he was very sorry. There were several times during his conversation when he expressed being sorry for what happened and wanted to apologize for it. I remained seated with him for a few minutes time and I asked Sergeant Mackie to carry on from there because he was more familiar with the circumstances of the case than I, and I then asked to be excused and took no further active part in the investigation.

MR. McLAUGHLIN: I believe that is all I have of this witness, Your Honor.

SYLVAN YUTER (315)

was called as a witness by and on behalf of the Government, and after having been duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. McLAUGHLIN:

Q Officer, your full name is what?

A Sylvan Yuter.

Q You are a member of the Metropolitan Police Department?

A That is correct, sir.

Q And attached to any particular detail?

A Attached to the Sex Squad, sir.

Q Were you so assigned on January 15th of this year, 1956?

A I was, sir.

Q As a member of the Sex Squad, did there come a time on that particular day of January 15, 1956 when you saw a person identified to you as Charles Coleman?

A There did, sir. (315)

Q Do you see him in court here today?

A I do, sir.

Q Will you point at him, please?

A The defendant sitting in the chair, sir (pointing.)

Q When and where did you see the defendant Charles Coleman on (316) January 15th for the first time.

A The first time, sir, was when he was in the Robbery Squad.

Q And that was when?

A Around 2:30, a quarter to 3:00, on the 15th.

Q Did there come a time when you questioned the defendant or someone in your presence questioned the defendant on that day of January 15th in regard to the rape and robbery of Miss Hood?

A There did, sir.

Q When and where was that?

A That was in the office of the Sex Squad, sir.

Q Who was present at that time?

A Sergeant Mackie and myself.

Q Did you participate in the questioning of the denfendant?

A Just briefly, sir, at that time.

Q Did Officer Mackie question the defendant Charles Coleman in reference to the rape and robbery of one Miss Hood?

A At the first occasion in the Sex Squad, just briefly, for about fifteen minutes.

Q Do you recall what was said to the defendant and what the defendant said, that is, who asked the questions?

A Sergeant Mackie told the defendant that there had been a crime (317) om Euclid Street and there was a palm print found on the scene, we had knowledge that it was the defendant's palm print, what did he want to say about the particular offense. We told him the nature of the crime, rape and robbery. He says, "You got me wrong. I have never raped anybody, never robbed nobody." He said, "All I do is write a few numbers."

Q How long would you say that conversation took place?

A About fifteen, twenty minutes, sir.

Q Did there come a time when you saw Officer McCarthy there at Police Headquarters on January 15th?

A Yes, sir, right after the conversation, he was there, sir.

Q Did the defendant go any place or do anything with Officer McCarthy? (317)

A Yes, sir. He was asked if he cared to take a polygraph test: inasmuch as he said he was innocent of these charges, he would be given an opportunity to take the test, and he said he would be glad to.

Q Did Officer McCarthy and the defendant at that time leave the office of the Sex Squad?

A They did, sir.

Q And where did you remain?

A I remained in the office of the Sex Squad.

Q Did there come a time when you saw the defendant again after that incident? (318)

A Yes, sir.

Q When and where was that?

A That was about 7:15 p. m., the same evening. We went to the office where Sergeant McCarthy had been giving polygraph tests.

Q Prior to going to the office of Sergeant McCarthy, had you seen the complaining witness, Miss Hood?

A Not at that moment. We had just received notice that she was coming in, that the Maryland police had located her and she would be in in a very short time.

Q And had you and Officer Mackie sent out for Miss Hood to come to Police Headquarters?

A Yes, we did, sir.

Q And when you went to the office where Sergeant McCarthy was, did you see the defendant Charles Coleman?

A Yes, sir.

Q What was said at that time, if anything, in your presence?

A Nothing other than the defendant denied the allegations again, sir.

Q And what happened then to the defendant?

A He was then brought around to the lineup room and placed in a lineup. That was about 7:30.

Q Do you recall whether or not Miss Hood had arrived at Police Headquarters at that time? (319)

A Yes, sir, she had.

Q Did they actually conduct a lineup?

A Yes, sir, a five-man lineup.

Q And was Miss Hood present at the lineup? (319)

A Yes, sir, she was.

Q Was anyone identified by Miss Hood in that lineup?

A She pointed out the defendant.

Q After that, after the lineup, did you see the defendant?

A Yes, sir.

Q Where was the defendant at the time you saw him after the lineup?

A Shortly after 8:30, about 8:30, 8:35 p. m., the same evening, in the office, he was taken to the office of the Sex Squad.

Q And when he was taken to the office of the Sex Squad, who was present in the Sex Squad office?

A There was Sergeant Mackie and Sergeant McCarthy, Dr. Purse, the complainant, Miss Hood, and myself.

Q Did anyone have any conversation or talk with the defendant at that time in your presence?

A At that time, at the confronting, the defendant was confronted with the complainant.

Q And by the complainant, you mean Miss Hood?

A Miss Hood. (320)

Q Did Miss Hood have any conversation with the defendant at that time?

A At that time the complainant, Miss Hood, asked the defendant, "Why did you pick me out?" and he said, "Lady, you got me wrong. I never raped nobody. I never robbed nobody. The only thing I ever done was write a few numbers."

Q And how long would you say that conversation took place?

A Not more than eight, ten minutes. It was very brief.

Q And after that conversation, did Miss Hood remain in the presence of the defendant?

A No, sir. She left the room, sir.

Q The Sex Squad office?

A No, sir. She left the portion where the confronting was held, which is in the rear of this long room, and went around to the front portion of the office, which is hidden from view of the defendant.

Q What happened to the defendant when Miss Hood went around to the other part of the office?

A The defendant remained there, Sergeant McCarthy, Sergeant Mackie and myself. He was then questioned regarding the case by all three of us, and

he denied it, denied it again to Sergeant Mackie and myself, and we (320)
left him briefly for a few minutes around 9:00 o'clock, and Sergeant (321)
McCarthy remained and talked to him. It must have been just after 9:00
o'clock, Sergeant McCarthy called Mackie and I and said --

Q Did he talk to you at that time?

A He talked to us at that time.

Q All right, and as a result of what Detective McCarthy talked to you at that time, then what happened?

A Sergeant McCarthy at that time stated that --

MR. HARRIS: Objection.

BY MR. McLAUGHLIN:

Q You can't state that. That is why I tried to avoid that.

A I am sorry.

Q You had a conversation with Sergeant McCarthy; is that right?

A That is right, sir.

Q After that conversation, then what next was done, if anything?

A Miss Hood, the complainant, was returned to the office, to the rear of the room where the defendant was sitting; at that time took a seat alongside of him.

Q All right, what happened when Miss Hood was returned to the vicinity where the defendant was seated?

A He said, "Lady, I want to apologize. I am sorry for what happened."

Q Did he say anything further than that, more than that? (322)

A He was questioned -- no, I am sorry. He says, "Lady," he says, "I remember you." He said, "I was walking down Euclid Street and," he said, "I was alongside the big white house."

MR. TYLER: I didn't get the last word.

THE WITNESS: He said, "I was alongside the big white house, and I saw you in the Studebaker automobile drive into the alley and then go into the garage under the big building of the apartment house on the corner." He said, "I followed you over there, and when you got out of your car," he said, "I grabbed you." He said, "I did pull you up to that place where there were some boxes," which later turned out to be wooden radiator covers. He says, "I pulled you back there," he said. "I took some money from you."

Asked him, "How much money?"

He says, "Four dollars."

He said, "I asked you is this all you got? I need ten dollars for my room rent."

She said, "This is all I have got. I was out to dinner tonight and (322) this is all I have got left."

He said he then taken her shoes off and her purse as my best recollection, and threw them aside or held the purse and threw the shoes out to the garage. He said the complainant begged him to return the purse or the wallet, (323) inasmuch as all of her identification was in it, and ask him if he wouldn't please give her her purse back, and he said he did. He said, "Lady, I will admit," he said, "I took your money, but I don't remember," he says, "messing with you down there sexually, I really don't."

Q Did he say anything as to where he went when he left the garage?

A He stated after he left the scene at 1475 Euclid, he proceeded to the 1000 block of Euclid, to the home of his father. He was asked for what purpose, and he said to try and get the other six dollars and make up the ten bucks for his room rent. He said he really needed ten dollars.

Q Now prior to the defendant making the statement that you have just stated, at any time prior to that, did you or anyone in your presence in talking to the defendant mention the fact that Miss Hood was driving a Studebaker automobile?

A Never.

Q Was there anything said by you or anyone in your presence prior to that conversation of the defendant's that Miss Hood had been out to dinner that night?

A No, sir.

MR. McLAUGHLIN: I believe that is all I have of this witness, Your Honor.

MR. McLAUGHLIN: Government Exhibit 14 was the fingerprint pictures (341) of the two known and unknown fingerprints. Government Exhibit 15 was the blood exhibit, the scrapings Officer Singleton said was blood. I believe that is all.

THE COURT: Has counsel anything to say as to any of these exhibits?

MR. McLAUGHLIN: My limited purpose was, as I recall, that in a con- (347) versation with the defendant, there was talk of it: someone mentioned blood, and he was accounting for it by kneeling on a tack and the tack stuck in his knee, or something to that effect. That was my purpose in doing it.

THE COURT: Is that your only purpose?

MR. McLAUGHLIN: Yes, Your Honor.

THE COURT: I don't think that means much. It seems to me it might be very much more appropriate to be admitted because of this woman's bleeding.

MR. McLAUGHLIN: As I say, I meant that, and she said she was (347)
bleeding, but, of course, I can't -- I say, they can't say as to whether it was her blood or not.

THE COURT: If that is your only purpose, I think I am going to deny it.

MR. McLAUGHLIN: Yes, Your Honor. (354)

(Government Exhibits marked for identification 5, 11, 12, 14 were received in evidence.)

MARY ALLEN HOOD (356)

was recalled as a witness by and on behalf of the Government, and having previously been duly sworn, was examined and testified further as follows:

REDIRECT EXAMINATION

BY MR. McLAUGHLIN:

Q Miss Hood, I show you Government Exhibit Q-1 and Government Exhibit Q-3 and Government Exhibit Q-4, and ask you --

Q I believe you identified those as the clothes that you were wearing on the night of November 9, 1955; is that right?

A Yes, sir.

Q Were they later turned over to the police? (357)

A Yes, sir.

Q From the time of November 9th, at the time that you were wearing those clothes, until they were turned over to the police, were they in your custody in your home?

A Yes, they were in my home the next morning.

Q Would you say they are in practically the same condition today as on the night of November 9th, when you were attacked in that garage?

A Yes, sir, they are.

Q On the night of November 9th, when you returned home, did (358)
you remove those garments?

A Yes, sir.

Q Were they in your possession until the following day, you say?

A Yes, sir.

Q All right, and what did you do with those garments the following day?

A Well, I went to the hospital, but my family gave these to the police.

Q The following day?

A Yes, sir.

Q And where had they been, at your house?

A Since that time, they have been --

Q No, I meant from the time they were turned over to the police. (358)

A Well, these two things were in my clothes closet, and this I suppose, was just in the laundry hammock.

THE COURT: I don't understand yet, Mr. McLaughlin.

BY MR. McLAUGHLIN:

Q All right, they were turned over to the police by whom? (359)

A By my mother.

Q And when was that, do you recall?

A The morning of the 10th. I am not sure whether it was the morning or the afternoon, but the following day anyway.

Q Had they been at your home until they were turned over to the police?

A Yes, sir.

THE COURT: Is that all three items, madam?

THE WITNESS: Yes, sir.

MR. McLAUGHLIN: That is all I have.

MR. TYLER: No questions, Your Honor.

THE COURT: All right.

MR. McLAUGHLIN: That is all, Miss Hood.

THE COURT: Do you want to come to the bench?

(At the bench:)

MR. HARRIS: We renew our objection to that.

SYLVAN YUTER (360)

was recalled as a witness by and on behalf of the Government, and having previously been duly sworn, was examined and testified further as follows:

REDIRECT EXAMINATION

BY MR. McLAUGHLIN:

Q Officer, in regard to these exhibits, Q-1, I believe, 3 and 4, were they received by you?

A They were, sir.

Q And received by you when, do you recall?

A On November 11th, sir.

Q And received by you from whom?

A From the mother of the complainant, sir.

Q And after they were received by you, what did you do with them?

A I brought them to my office and locked them in my desk, and on the 15th of November, took them to the FBI and turned them over to Special Agent Bidez.

THE COURT: You said November, sir? (360)

THE WITNESS: Yes, sir.

THE COURT: The 15th of November?

THE WITNESS: Yes, sir.

BY MR. McLAUGHLIN:

Q You say they have been locked up until that time? (361)

A In my desk, yes, sir. I have two large drawers in my desk.

Q And were they then returned to you by the agent?

A On December 9th, Mr. Bidez called me and I went to the office of the FBI, and he turned them over to me. I brought them back and made a property return and sent them to the Property Clerk's office.

MR. McLAUGHLIN: I believe that is all I have of this witness, Your Honor.

RECROSS EXAMINATION

BY MR. HARRIS:

Q Officer Yuter, you say you received these on November 11th?

A That is correct, sir.

Q And your best information is that this alleged occurrence was on November 9th?

A That is right.

Q You do not know where these were, Q-1, Q-3 and Q-4, from November 9th until the time that you received them on the 11th?

A Only what the mother of Miss Hood told me, sir.

Q So you don't know where they were stored or what other obstacle they may have been up against up until the time received them, of (362) your personal knowledge?

A No. What I had asked --

MR. HARRIS: No further questions.

THE COURT: All right, sir, you say you received them from the mother?

THE WITNESS: That is correct, Your Honor.

THE COURT: And where was the mother at the time, sir?

THE WITNESS: In an apartment house at 1400 Fairmount Street. I don't recall whether it was Apartment 201 or not, Your Honor.

THE COURT: Was it the apartment of the complainant?

THE WITNESS: Yes, sir, it was the apartment of the complainant. She and her mother lived together.

THE COURT: She and her mother lived there?

THE WITNESS: Yes, sir.

THE COURT: All right, sir.

MR. McLAUGHLIN: That is all I have of him, Your Honor. I guess (362) we'll have to approach the bench.

(At the bench:)

MR. McLAUGHLIN: If my friend insists, Your Honor, I will bring the mother down. I tried to avoid that, because she is a real elderly lady, I understand.

THE COURT: If you want her, you can bring her, but I think the (363) last statement --

MR. HARRIS: I don't think it is up to us.

THE COURT: No, it isn't up to you, no.

I think I will receive them, Mr. McLaughlin, because here are the goods in the apartment of the complainant and her mother and are accounted for up to the next day by the complainant herself. But this is a rape case. If there is any question about it, we had better bring her.

MR. TYLER: I think we had better.

MR. McLAUGHLIN: We will offer it with that reservation, Your Honor, bringing the mother down, sir.

THE COURT: All right, sir.

That, then, is the point where you close?

MR. McLAUGHLIN: Rest, yes.

THE COURT: Then subject to that and subject to -- was there anything else? -- oh, yes, in conformity with what we agreed as to the other exhibit.

All right, sir, then the Government closes, subject to those two reservations?

MR. McLAUGHLIN: Yes.

MR. HARRIS: Of course, if the Government has closed, then, of course, at this time, Your Honor, we renew all our motions heretofore made, and, of course, at this point, Your Honor, we make another motion for a directed verdict of acquittal on Count 1 of the indictment, which is the rape charge, in that it goes along with what has been suggested that there (364) is no real positive identification.

THE COURT: I will deny it, Mr. Harris. I think there is sufficient evidence for it to go to the jury. If they believe the facts presented, (365) it would be adequate. They are adequate on which they could return a verdict.

MR. HARRIS: Out of an abundance of caution, and under the (366) Villaroman case, we renew all our motions and objections, to protect ourselves.

THE COURT: I think you did do it.

MR. HARRIS: Thank you.

THE COURT: All right, sir. (367)

(In open court:)

THE COURT: You may proceed, Mr. Tyler.

MR. McLAUGHLIN: With that, the Government will rest, Your Honor.

THE COURT: Very well, sir.

THE COURT: I assume you are waiving your opening, sir?

MR. TYLER: Yes, sir.

Thereupon --

KEITH J. DONAHUE

was called as a witness by and on behalf of the defendant, and after having duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. TYLER:

Q Officer Donahue, will you state your full name, please?

A Private Keith John Donahue.

Q You are a member of the Metropolitan Police Department?

A Yes, sir. (368)

Q To what department or division of the Metropolitan Police Department are you attached, sir?

A No. 8 Precinct.

Q How long have you been attached to the 8th Precinct?

A Since January 6, 1956.

Q January 6, 1956?

A Yes, sir.

Q To which precinct were you attached prior to that time?

A No. 13 Precinct.

Q And how long were you attached to No. 13 prior to January 6th?

A Since April 17, 1950.

Q Do you know the defendant sitting to my left here, Charles Coleman?

A I do.

Q Between the dates of November 9, 1955 and January 16, 1956, did you have an occasion to arrest the defendant Charles Coleman?

A I don't remember what date it was. I can't truthfully say.

Q Any time between November 9, 155 and January 16th, any time in there, did you have an occasion to arrest Charles Coleman, the de- (369)
fendant here?

A I can't say. No, not that I can remember.

Q I beg your pardon? (369)

A Not that I can remember. I don't remember which date it was.

Q No, I mean, do you remember arresting him at any time on any of those dates?

A Yes.

Q You do?

A Yes.

THE COURT: You mean in between those dates.

BY MR. TYLER:

Q In between those dates.

A Yes.

Q In between those dates, that is, the span of almost two, two and a half months, how many times did you arrest him between those dates?

A Once that I can remember.

Q What was the basis on that occasion, that one occasion that you arrested him? What was the basis for that arrest at that time?

A I wanted him for investigation of rape and robbery.

Q For the investigation of rape and robbery.

Now, sir, why did you arrest Charles Coleman particularly? (370)

A Because he fitted the description of a lookout we had.

Q Give us, sir, the description of the lookout which you had on this particular rape and robbery.

A Well, it was the general description of the defendant, and the defendant or the person who was supposed to have done this was wearing a rust colored coat, rust colored, and had a scar over one eye.

Q Had a scar over one eye?

A Yes.

Q Which eye was that, do you recall?

A I don't recall.

Q But there was a scar over one eye, the man who was supposed to have done this?

A That is right.

Q Where did you arrest this defendant, sir?

A 17th and U Street, Northwest.

Q And what did you do with him after you arrested him, sir?

A I took him to the station in the 13th Precinct.

Q Did you talk to him on the way to the station, if you recall, do you remember?

A No, I didn't talk to him on the way to the station, no. (370)

Q Did he talk to you on the way to the station? (371)

A No.

Q What did you do, if anything, when you got to the station house? By the way, sir, excuse me for interrupting, which station house was that?

A No. 13 Precinct.

Q What did you do when you got to the station house?

A I asked the defendant did he know what I had him for, what it was all about, and he said no, that he had just been let loose on the charge that I had had him.

Q Did he state by whom?

A Yes, by Detective McKenna and Private Long.

Q All right, sir.

A So I checked with Detective McKenna and he said that he had checked him out on this particular lookout that we had.

Q What does that mean, sir?

A That means that he had talked to him very thoroughly and he was sure he wasn't the man, but he had not sent him downtown.

THE COURT: By "downtown," you mean to headquarters?

THE WITNESS: To the lineup, sir.

BY MR. TYLER:

Q He had checked him out and he was sure he was not the man? (372)

A That is right.

Q Now, did you have any further contact at that time with the defendant?

A No, I didn't.

Q Do I understand you to mean, then, that you left him in the custody of Dctective McKenna, who released him?

A I released him myself.

Q You released him yourself?

A Yes, sir.

Q Was that of your own volition that you released him, sir?

A Yes.

Q And precisely why was it that you released him?

A Because he fitted the general description perfect, except he did not have a scar over his eye, and that is what the complaining person in this case stated, that he definitely had a fresh scar over one of his eyes.

MR. TYLER: I have no further questions.

BY MR. McLAUGHLIN:

Q Did you ever talk to Miss Hood?

A I don't believe I know her, sir. I don't know her, sir, no. (373)

Q When this man was picked up by you, did you ever send him to Police Headquarters to be fingerprinted?

A No.

Q How?

A No.

Q Did you ever bring him to No. 13 and fingerprint him?

A No.

Q How?

A No.

Q Well now, where did you get your information about this particular rape of Miss Hood?

A Come out on the lookout on teletype.

Q All right, did you have any record of that yourself or did someone tell you?

A Only the information that I took from the teletype?

Q Now that information that you took about the man with the scar, wasn't that pertaining to two robberies on Florida Avenue?

MR. TYLER: Objection, Your Honor.

THE COURT: I think he has got a right on cross examination to ask him that.

THE WITNESS: I can't say that it was on two robberies on Florida (374) Avenue.

BY MR. McLAUGHLIN:

Q Well now, when you picked this defendant up, were you picking him (375) up for two robberies on Florida Avenue?

A No.

MR. TYLER: I think he has answered that, sir.

THE COURT: He said, no.

BY MR. McLAUGHLIN:

Q Didn't you have a description in the precinct of two robberies in the 1700 block, I believe, of Florida Avenue, where this man wore that particular type of a jacket that you described.

A I can't remember that particular type, not to my knowledge.

Q Now these two robberies that I am talking about are in No. 13 (374) Precinct?

A That is right.

Q Well now, didn't you have any report on that in No. 13 Precinct?

A Not that I can remember, not to fit that description.

Q And those two particular robberies on Florida Avenue, wasn't that the description that the man had a scar?

A I can't remember about that.

Q Well now, haven't you got them in the precinct?

A They probably are. I can't remember that far back. (375)

Q Weren't you a policeman in that precinct at that time?

A That is right.

Q When you picked this defendant up at that time, didn't you inquire about these two robberies on Florida Avenue?

A If he fit the description, I probably did, but I can't remember at that time.

Q Didn't he fit the description by the coat, the same type jacket that you refer to?

A I can't remember that far back.

Q How?

A I can't remember that far back.

Q Well now, have you got the means to fingerprint people in No. 13 Precinct?

A Yes, we have.

Q Was there any occasion for you not fingerprinting this defendant and sending it to headquarters?

A Yes, there was.

Q What?

A Because it hadn't come out then. The fingerprint card hadn't come out at the precinct then. We had no way at that time.

Q You mean you had no means at the precinct to fingerprint people (376) people?

A Not at that time. It came out about four days to a week after I picked him up and released him.

Q Oh, you mean the method, that is, the equipment and all like that for fingerprinting people; is that it?

A That is right.

Q So you didn't have anything there at that time? (376)

A That is right.

Q And you say that you have no knowledge at all at the time that you picked this defendant up about these two robberies in the 1700 block of Florida Avenue?

A I have knowledge of the robberies, but I don't have knowledge of whether he fit that description or not.

Q When you picked this defendant up, didn't you question him about those?

A I don't remember; if he fit the description, I probably did.

Q Oh, you are just guessing now; is that it?

A That is right.

MR. McLAUGHLIN: That is all.

ROBERT J. LONG (377)

was called as a witness by and on behalf of the defendant, and after having been duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. TYLER:

Q Officer Long, would you state your name, sir?

A Private Robert J. Long.

Q You are a member of the Metropolitan Police Department?

A I am.

Q To what division or department are you presently assigned, sir.

A I am a footman assigned to the 13th Precinct.

Q Have you been so assigned since November 9, 1955, sir?

A I have.

Q Do you know the defendant sitting to my left, Charles Coleman?

A I do.

Q Between November 9, 1955 and January 16, 1956, at any time during those dates, did you have occasion to arrest the defendant here, Charles Coleman?

A I did.

Q If you can recall, sir, approximately how many times did you (378) arrest the defendant between those dates, November 9th and January 16th?

A Once.

Q Now, sir, do you recall the circumstances under which you arrested the defendant, Charles Coleman?

A I do. (378)

Q Would you relate them to the Judge and jury, sir?

A Several days previous to the day I arrested the defendant, Officer McKenna at No. 13 told me if I saw Coleman out on the street, to pick him up for investigation, since he had received information that the defendant had been carrying a gun and had pulled a gun on a Chinaman that owns a Chinese restaurant up there on U Street. He told me this because I ran the beat where Coleman hung around at 17th and U Streets, Northwest. The date I arrested him was, I believe, November 15th, around between 10:30 and 11:00 o'clock in the morning. At the time I arrested him, I also sent him in for investigation of several attempt robberies that had happened in the 1700 block of Florida previous to my arrest, because the defendant was dressed a great deal like the man who the description came out for.

A That is right, and he fit the description of the person that they (379) were looking for for attempted robbery. I took him down to the box, and at the time I called for the wagon, I also called Detective McKenna at No. 13 to tell him that I had picked the man up and to talk to him about the robberies, too.

Q Did you accompany the defendant to the police precinct, sir?

A No, I didn't. I took him to the box, called for the wagon, and he was driven in in one of the scout cars from No. 10.

JOHN F. McKENNA (382)

was called as a witness by and on behalf of the defendant, and after having been duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. TYLER:

Q Now, sir, would you state your name?

A Private John F. McKenna, No. 13 Precinct.

Q You are a member of the Metropolitan Police Department? (383)

A Yes, sir.

Q How long have you been assigned to No. 13 Precinct, sir?

A Eight years.

Q Has that been continuously, sir?

A Yes, sir.

Q Officer McKenna, do you know the defendant sitting here to my left, Charles Coleman?

A Yes, sir.

Q Now between the date of November 9, 1955 and January 16, 1956, did

you have occasion within your official capacity to have any dealings (383)
with this defendant?

A I did.

Q On how many occasions did you have to deal with him during those dates?

A On one date, November 15th, I believe, I talked to this defendant.

Q Was that pertaining to a rape-robbery, sir?

A No, it wasn't.

Q When was the next time you had an occasion to talk with the defendant, sir?

A I talied to him maybe a month or two months ago at the D. C. Jail.

Q And was that pertaining to this particular rape-robbery, sir, this case.

A No, sir. (384)

MRS. PERCY C. HOOD (392)

was called as a witness by and on behalf of the Government, and after having been sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. McLAUGHLIN:

Q Just talk real loud. Where do you live, madam?

A 1601 Oregon Place, Northwest.

Q And what is your name?

A My name is Mrs. Percy C. Hood.

Q Where did you live during the month of November, 1955?

A 1400 Fairmount Street, Northwest.

Q And what did you occupy at those premises?

A Apartment 202.

Q And who occupied that apartment with you?

A My daughter, Mary Allen Hood.

Q Just you and your daughter?

A Yes. (393)

Q I will show you Government Exhibits marked for identification 1-Q, 3-Q and Q-4 and ask you, did there come a time when you turned those exhibits over to someone?

A I did.

Q Do you recall when that was, madam?

A November 11, 1955.

Q And do you recall the officer? (393)

A Sergeant Yuter.

Q Where did you get those exhibits to turn them over to Officer Yuter?

A Out of the closet.

Q In your apartment?

A Yes.

Q Does anyone else have access to that closet but you and your daughter Mary Allen?

A No.

Q Just the two of you live there?

A That is right.

MR. McLAUGHLIN: I believe that is all I have to ask.

CHARLES C. COLEMAN, (398)

the defendant herein, was called as a witness in his own behalf, and after being duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. TYLER:

Q Now, Mr. Coleman, I want you to speak loudly so that all the members of the jury can hear you and His Honor and the Assistant U. S. Attorney.

Now, stake your name, sir.

A Charles Curtis Coleman.

Q Where do you reside, sir.

A 1727 U Street, Northwest.

Q Were you so residing there on or about November 9, 1955?

A I was.

Q Now, Mr. Coleman, you have heard the testimony of the Govern- (399) ment's complaining witness here, and I am sure you understand the gravity of your offense --

MR. McLAUGHLIN: I object to this.

THE COURT: I will sustain the objection to that. Your function at this time is to ask questions, sir.

BY MR. TYLER:

Q Now, calling your attention to November 9, 1955, did you have the occasion or any reason to be in the rear of the garage in the garage known as the Hilltop Garage?

A I was. I did have.

Q That is, on November 9, 1955?

A That is right. (399)

Q You were in the garage, you say?

A In the morning.

Q In the morning?

A In the morning, between 7:00 and 8:00.

Q I am sorry, I can't hear you. Keep your voice up.

A In the morning, between 7:00 and 8:00 or 9:00 o'clock.

Q What was your reason for being in that garage at that time?

A For numbers.

Q What do you mean, for numbers, sir?

A Well, I am a number writer, and I have a pretty large book (400) which covers that territory, and on that morning, between 7:00 and 8:00 o'clock, or 9:00, I picks up my numbers.

Q Did you at any time, sir, during that day see the Government's complaining witness Miss Hood?

A No, I didn't.

Q Did you at any time on that date, sir, attack or molest in any fashion the Government's complaining witness Miss Hood?

A No, I didn't.

Q Were you in the general neighborhood or, rather, the other garages in addition to the garage in question on that particular morning, sir?

A I beg your pardon?

Q Were you in other garages in that neighborhood on the morning (401) in question, November 9, '55?

A I was.

Q Why were you arrested, sir, on January 16, 1955 -- 1956?

THE COURT: January --

BY MR. TYLER:

Q Yes, January 15, 1956.

A Why I was arrested was on a charge of assault.

Q On a charge of assault?

A Assault.

Q By whom were you arrested, sir?

A I was arrested by Officer -- I am unable to recall his name right now.

Q Is that that officer who testified previously in this case?

A He has.

Q Would it be Officer Donahue?

A Stanczak is his name. (401)

Q Officer Stanczak.

Now, that was for what, sir?

A Assault.

Q Now subsequent to, that is, after November 9, 1955 and previous to the date, that is, before the date on which Officer Stanczak arrested you, had you been arrested in connection with this matter previously?

A Yes, sir. (402)

THE COURT: By this matter, you mean the Hood case?

BY MR. TYLER:

Q This rape robbery for which you are on trial today, sir.

A Yes, sir, I have.

Q And how many times have you been arrested in connection with this particular rape-robbery, sir?

A Twice.

Q And by whom were you arrested on those two occasions?

A The first time I was picked up by Officer Long.

Q Now, will you relate to the Court and the jury the precise events in regard to this particular charge of rape and robbery which happened on that date, when you were arrested by Officer Long?

A Yes, sir.

THE COURT: Now he hasn't given the date, Mr. Tyler.

BY MR. TYLER:

Q Do you know the date when you were arrested by Officer Long?

A No, I don't.

Q About when was that?

A It was in the morning. (403)

Q What month?

A In December.

Q Around the first week, the second week or -- can you give us an approximation?

A To my knowledge, I believe it was around the second week.

Q Somewhere in the second week?

A Somewhere in the second week.

Q Can you pinpoint that any further in regard to the date?

A I don't know exactly what date it was.

Q All right, the second week in December, 1955?

A Yes, sir. (403)

Q Is that correct, sir?

A Yes, sir.

Q Now, did Officer Long arrest you in connection with this matter on that date, sir, this particular rape-robbery?

A Yes, sir.

Q Tell us exactly what happened in relation to the arrest on that date in December with regards to you and Officer Long. What did he say to you and what did you say to him; where did he take you and what happened; will you start, sir?

A Well, after I eat my breakfast in the Raven's Restaurant on (404) 17th and U Street, I went and put my numbers in.

Q Talk louder so they can all hear you.

A I went and turned my numbers in. I came back to the corner, went back in the restaurant, and I got me a bowl of ice cream.

Q What time was that, sir?

A That was somewhere between 11:00 and 12:00 o'clock.

Q All right.

A After I eat my ice cream, I come out of the restaurant and Officer Long approached me. He told me I was fitting the description of a man who had just committed robbery-rape and some more robberies. So I told him I wouldn't know anything about it and I just got through with my work and I was eating my lunch. So he told me to take me down and let me talk to the detective about it.

Q Keep your voice up so they can all hear you.

A So he carried me to the 16th Street call box, and he called Detective MacKenzie, and Detective MacKenzie told him to send me down. So he waited for a wagon, and the wagon didn't come, so he stopped one of the scout cars that was from No. 10 Precinct, and he had those two officers to take me on down to 13. So when I got down to 13 Precinct --

THE COURT: Excuse me, does he mean 13 Precinct?

BY MR. TYLER: (405)

Q 13 Precinct you are speaking about?

A Yes.

Q Can all the jurors hear on the end down there? Can you hear him on the end? All right, go ahead.

A After I got down to the 13th Precinct, I was received from (405) the arrest officer Long by Detective MacKenzie.

Q McKenna, you say?

A McKenna.

Q Is that the same McKenna who testified yesterday?

A Yes, sir.

Q All right.

A He asked me had I been working. I told him I worked. He asked me where did I work. I told him I work at the Sedgewick Apartment. He asked me what else did I do for a living. I was scared to tell him about the numbers, so I didn't mention the numbers to him at that time until later on, after he had mentioned what had happened.

He asked me what time do I work. I told him I work from 5:00 to 10:00. So he asked me was that the only occupation I had to make money; I would have had to explain myself better than that. I told him I played semi pro baseball for the Washington Tigers, and I do. So after he expressed that part about the robbery and rape, I told him, I said, "Well, I am a number writer." I said, "I would rather for you to know that which is facts than to bring (406) me in on something like that," that I know is not true. So he told me, "Well, I will catch you writing numbers one of these days," and he just joked that off. He took my hat off my head and searched my head for a scar. He said, "I am looking for a man with a scar on his head." He said, "I don't know exactly whereabouts the scar would be," he said, "but it is a fresh scar." He said, "This lady definitely said it is a fresh scar on his forehead." So he searched my head, and after he searched my head, he turned me loose. The lieutenant of the precinct was present at the time, too. He turned me loose in his presence. I went on back up U Street, I walked. After I got up U Street, I was approached again by Officer Donahue.

Q Excuse me, is that the same Officer Donahue who testified on your behalf yesterday?

A That is right.

Q The gentleman with the brown jacket on?

A That is right.

Q All right.

A I was approached by Officer Donahue at the same spot where Officer Long had approached me. He says, "Come over here." I went over to him. He says, "Have you ever been picked up for investigation?" I said, "I just left

the precinct." He said, "You're right sure?" I said, "I just left the (406)
precinct." He said, "Let's go back down." He said, "You fit the (407)
description of somebody I'm looking for." He carried me on back down to No. 13 Precinct -- I'm sorry, he called first and asked Detective MacKenzie had he just turned me loose from down there, and MacKenzie asked him what was my name. He said, "Charles Coleman." He said, "Yes, I just released him." He said, "No use bringing him down here unless he got a scar on his head. Now if he has accumulated a scar since he left here, bring him down." He turned me loose.

Q Now, apart from the two arrests which you have just related, did any other officer arrest you for this rape and robbery?

A No, sir, they didn't.

Q Had you been in any lineups before January 15th, between November 9, 1955 and January 15, 1956, had you been in any lineups in connection with this matter, this rape-robbery?

A No, I hadn't.

Q Getting to the arrest on January 15, 1956, in which you were arrested by Officer Stanczak, did there come a time on that date when you were taken to the Robbery Squad of the Metropolitan Police Department?

A Not immediately.

Q Let me ask you this. Let's get to the lineup. Did there come a time on January 15, 1956 in which you faced a lineup?

A I did. (408)

Q Approximately what time was that, sir?

A That was Sunday. I wouldn't determine the time because I really don't know exactly what time it was.

Q Well now, how much time had elapsed between the time when you were first arrested and when you were placed in this lineup, if you know?

A I was arrested between 11:00 and 12:00 o'clock on a Saturday night, which is January 14th, and I didn't enter the lineup until Sunday.

Q You didn't enter the lineup until Sunday?

A That was after 12:00 o'clock, anyway.

Q Now tell us, the Court and the jury, in a loud, clear voice so that the lady and the gentleman on the end of the jury box can hear you all of the events which took place from the time you were put in the lineup until the departure of Miss Hood on that night, starting from the lineup.

A The night I was then taken to headquarters, I was put in the (408)
lineup with a girl that cut me on the finger. We went through the lineup. No one asked for me concerning no robberies or rape. So I was taken in the Sex Squad. That is the first place I went to, the Sex Squad. I was questioned there about robbery and rape. I was taken back in the lineup again on the second time, and no one asked about me for no robbery or rape.

Q What time was the second lineup? (409)

A As I said before, I wouldn't know the time.

Q All right.

A That was the second time. So the Robbery Squad come and got me and they questioned me about robberies. So after the Robbery Squad turned me back over to the Sex Squad, the Sex Squad did not question me any further right off. They turned me over to -- what is this -- murder squad, the Homicide, and they gave me two lie detectors on two murders, and I understood one was on Georgia Avenue and the other was on Chapin Street. After they had turned me loose from over there, they sent me back over to the Robbery Squad, and the Robbery Squad put me back in the lineup for the third time, and on the third occasion, still didn't no one --

THE COURT: I didn't hear that.

THE WITNESS: On the third time that I went to the lineup, nobody wanted me.

THE COURT: Nobody?

THE WITNESS: Nobody.

BY MR. TYLER:

Q That is the third lineup now?

A That is the third lineup.

Q All right.

A The Robbery Squad put me through the fourth time in the lineup. Nobody wanted me. They turned me over to the Sex Squad again. The Sex (410)
Squad put me through this short lineup down in front of the screen. I was pointed out by a colored lady as being the one in her room. This colored lady says, she said I was different --

Q No matter what she said, stick to this matter here. Did Miss Hood identify you?

A Miss Hood wasn't even in the audience.

Q Let me ask you this. Were there any other subsequent lineups after this fourth lineup?

THE COURT: Excuse me, Mr. Tyler, the marshal advises me some of (410) the jurors are not hearing. Why don't you go over that way and then the jury can hear.

BY MR. TYLER:

Q All right, now, keep your voice up so I can hear you back here.

THE COURT: Let me suggest this. I don't know where you left off, but I understood him to say he was taken to the Sex Squad and he had been pointed out by a colored lady, and you stopped him from a conversation there, and he said that Miss Hood, the complainant, was not there. Is that what you said?

THE WITNESS: Yes, sir.

THE COURT: Does that bring you up, ladies and gentlemen?

(The jurors nod affirmatively.)

BY MR. TYLER: (411)

Q All right, now, let's keep it up where I can hear you. Is that the last lineup or were there subsequent lineups?

A That was the last lineup.

Q You don't remember seeing a Miss Hood at that time?

A No, sir.

Q Let me ask you this. Could you see the persons who were on the other side of the screen?

A Only if you are down in there amongst them. You cannot see them out of the screen.

Q So that you wouldn't know whether Miss Hood was down there or not; is that correct?

A I would know in that last one.

Q After this last lineup, what, if anything, took place in regard to this case, this rape-robbery?

A Ask that again.

Q After the lineup, where did they take you and what did they do?

A They taken me back to the Sex Squad.

Q All right, what happened then?

A I was in Officer Sullivan's office. In this Officer Sullivan's office, Sergeant McCarthy -- he testified already -- he was sitting there. He asked me would I take a lie detector test. I told him I would like to have (412) one. I said, "If a lie detector test prove I am innocent, I would like to have it." So he talked on and he talked on, and he asked me to apologize to this lady.

Q You said he asked you to apologize to this lady?

A Yes, sir, he asked me to apologize to this lady. (412)

Q Do you know which lady he was talking about?

A Miss Hood. I told him I don't have no apologies to make to anyone. He said. "I'll bring her in here and see what you want to say to her."

Q Keep your voice up.

A So he brought Miss Hood in there and sat her down in front of me, and he asked me, he said, "Charles --

Q Let me interrupt. Where was this?

A This was in the Sex Squad, in the back of the Sex room, the Squad room.

Q All right.

A So he asked me to apologize to Miss Hood. She was sitting in front of me. So I said, "Lady," I said, "I don't have no apologies to make to you." I said, "I haven't did anything. I haven't robbed you. I haven't raped you, and I don't see where I should apologize to you for something somebody else did to you." I said, "In fact, I wish they would catch the man who did do it and you could accept his apologies, not mine." So after they taken (413) Miss Hood out, one officer -- I can't recall his name, but he testified -- he told me I was smart. He said, "We didn't ask you to tell her that. We asked you to apologize." So he started beating on me, and McCarthy told him, he said --

Q Speak up: they can't hear you.

A "There is no use doing that."

Q Speak louder. Just a minute. Repeat the last statement. Just a moment. Will the clerk repeat the last statement he just made? Some of the jurors can't hear.

(The last answer was read.)

BY MR. TYLER:

Q All right, now continue and keep your voice up loud so all of the jurors can hear you.

A And after he told this officer, "no use doing that," he ordered him to take me where he could give me a lie detector test, and they taken me in there, but I didn't get it. They didn't give me a lie detector test. Instead, they started whopping me, Sergeant Mackie and Yuter, and both of them, they butted me, kicked me, and I told them I didn't care what they do, I was going to take it and stand up for my rights. He said, "Well, I want you to go back in there and apologize to that woman." I said, "If you want me to apologize for writing numbers, I will do so." I said, "I am not

guilty of no rape-robbery of nobody," and I just took the beating (413-414) and I continued taking it, and I took it for hours and hours, and I was already sick, and I had a toothache and I also had stitches in my finger (indicating), had them in my ear. I got them busted out right there, and I didn't tell them anything.

Q So what happened? Go ahead, what happened then?

A After that, they took me back down in the lockup. I stayed about five minutes, before I called for something to be put in my teeth. So one of the officers come and told me he would send me over to the hospital. He sent me over here to General Hospital. I guess that is where it was.

Q Is that all that took place on the afternoon of the 15th at Police Headquarters?

A Yes, sir.

Q Now let me ask you this, sir. Did you at any time tell Miss Hood in the presence of Dr. Purse that you were sorry that you did attack her?

A At no time did I say over five words to Miss Hood. That is to say --

THE COURT: No, the question is, did you tell her that you were sorry that you did attack her? Is that your question?

THE WITNESS: At no time I told her.

MR. TYLER: Yes, sir.

THE WITNESS: I didn't tell her that at no time. (415)

BY MR. TYLER:

Q Now, at the time you talked these approximately five words to Miss Hood, was that before or after the beating?

A That was before the beating.

Q Let me see if I understand you correctly. You talked to Miss Hood before the beating?

A Before the beating.

Q Did you talk to her again after the beating?

A No, I didn't.

Q Now, did there come a time when you had a conversation in regard to this case in the D. C. Jail with a member of the Metropolitan Police Department?

A Yes, sir.

Q In regard to this particular case here, this particular rape and robbery, I would like for you to tell the Court and jury what was said to you and what you said to the officer.

THE COURT: And who it was and where, sir.

BY MR. TYLER: (415)

Q This man in the D. C. Jail, as I understand it?

A Yes, sir. Detective MacKenzie, he visited me in the D. C. Jail, and he asked me, he said, "Charles" -- may I say what he said?

Q Go ahead. (416)

THE COURT: Yes, sir.

THE WITNESS: He said, "Charles," he said, "they gave me hell for turning you loose." He said, "They thought you were an important suspect in these cases," he said, "but I don't see how they could do so," he said, "because I had the description from headquarters there." He said, "The complainant was turned in here at the 13th Precinct," he said, "and I would be willing to go on the stand and tell it just like I know it." He said, "I had those descriptions and I was looking for the man," and he said, "If you get a good lawyer and have them subpoena me in court, I will go to court on the stand and tell my story about it." He says, "I know the description --

BY MR. TYLER:

Q Keep your voice up.

A -- of the man."

Q What is the last word you said?

A He said, "I know you are not the man that did it and I know the description of the man that did it."

Q Did he ever give you a description of the man who did it?

A He did.

Q What was that description?

A He told me the man weighed about 150 pounds. He was about (417) 5 feet 8 inches tall. He had a scar on his forehead. He said this man was wearing a brown suede jacket. He also told me mine looked more of a maroon.

Q Is that the last time you saw Officer McKenna prior to his testimony here today? Was that the last occasion in which you saw Officer McKenna --

A That is right, sir.

Q -- prior to the testimony yesterday?

A Yes, sir.

Q Let's get back to the lineup a minute.

THE COURT: Which one, Mr. Tyler?

MR. TYLER: The last lineup, Lineup No. 4.

BY MR. TYLER:

Q At that particular lineup, did I understand you to say it was after No. 4 lineup in which the officers talked to you about Miss Hood?

A That is right. (417)

Q Now at this particular lineup, sir, did they have you say anything in the lineup?

A No, sir, not at the fourth one.

THE COURT: I didn't hear that.

THE WITNESS: No, sir, not at the fourth lineup.

BY MR. TYLER:

Q Did they have you say anything at any of the lineups? (418)

A Yes, sir.

Q All right, now at the time that you spoke in the lineup, did you speak through a microphone or, rather, did you see a microphone?

A The microphone was dropped down. As we stepped up to speak, it was dropped down to the height.

Q Did you speak into the microphone?

A Yes, sir.

Q Now, to your best recollection, sir, during the course of the events — or on January 15, 1956, how many times, how many occasions did you have to talk to Miss Hood?

A Only once.

Q Only once that you recall; is that correct?

A That is right.

Q On this occasion when you talked to Miss Hood, sir, approximately how long did this conversation take place?

A About five minutes.

Q In addition to you and Miss Hood, who else was present?

A Well, there were about five detectives in there. I wouldn't know all their names.

Q During the course of your conversation with Miss Hood, was anyone else speaking? What I mean to say is, were you interrupted at any time during the course of your conversation with Miss Hood? (419)

A No, I wasn't.

Q Did there come a time during the course of your conversation with Miss Hood when there was a disagreement between you and her?

A No, there wasn't.

Q There was not?

A There was no disagreement.

Q Did Miss Hood at that time accuse you of being the person who assaulted her?

A No, she didn't. She only spoke about the voice. (419)

Q Keep your voice up now, we are having trouble again. Keep your voice up.

A She only spoke about the voice. She disn't accuse me.

Q What did she say about the voice?

A She said my voice sounds kind of like the man.

Q Keep your voice up, don't let it drop.

A But she said, "I couldn't identify the man I couldn't say he is the man." She also said I didn't have to be the man. She said it is just his voice. She said his voice sounds kind of like the man. She says he has got a real soft voice. She says he has got a real soft voice. She kept saying that. She kept saying that. She said his voice sounds almost like the man. (420)

Q Did she say anything else about whether she could identify it as being white or colored?

A No, I didn't hear her say anything about that.

Q During the course of this conversation, did Miss Hood at any time in your presence identify you directly as being the man who assaulted her?

A No, she didn't.

Q Did she during the course of this conversation mention anything else in addition to what you have given us as to the physical features of this assailant?

A No, she didn't.

Q Have you ever seen any of those articles there before?

A In deed, I haven't.

Q Sir?

A No, sir, I haven't.

Q Did you ever tell any of the officers about a Studebaker car which Miss Hood was supposed to have been driving?

A No, sir, I didn't.

Q Did any of the officers ever tell you about a Studebaker?

A I wasn't even questioned about a car.

Q At the time you were picked up, sir, where were you living? (421)

A 1727 U Street, Northwest.

Q Now, that was about January 15, '56, I believe. Were you behind in your rent on that date?

A I never have been behind in my rent. I always have been way in front with my rent, more than weeks.

Q Getting back to November 9, 1955, I believe you have told (421) us you were in the garage, to the best of your recollection, between 8:00 and 9:00 o'clock in the morning, is that correct, sir --

A That is right.

Q -- writing numbers?

Did you have an occasion to go in there at any time after that?

A No, I don't have.

THE COURT: I don't think he understood you. You asked him if he had occasion to go in there again. He said no, he don't have. You mean, you didn't have occasion that day?

THE WITNESS: I don't have occasion at any time to go in there after 7:00, 8:00 or 9:00, between those hours.

THE COURT: All right.

BY MR. TYLER:

Q So that you did not go in that garage any more that day? (422)

A No, sir, I didn't.

Q Now, on the afternoon of November 9th, around 9:00 p. m., do you have any present recollection of where you were?

A I do have.

Q Can you tell us where you were at that time?

A Between 6:00 and 7:00 o'clock, I called up 1705 Lawrence Street. That is where my girl lives. I called her up and told her what the number was that day. Then I told her I would be out there in the next forty-five, fifty minutes, which it takes that long to go out there if I go by street car or bus; if I go by cab, it is quicker. So I takes the street car out there and I stays, I wouldn't exactly say, until 12:00 o'clock. It was sometime between 11:00 and 12:00 o'clock when I left out there, because I watched the fight while I was out there. Every Wednesday night I am out there.

Q You watch the fight out there every Wednesday night?

A Every Wednesday -- not only Wednesday, Monday, Wednesdays, and Fridays.

Q Now, sir, did you tell any members of the Metropolitan Police Department that you had taken any money from the complainant, Miss Hood?

A No, I have never told them that.

Q Did you ever apologize to Miss Hood? (423)

A No, I never apologized to her. I didn't have no cause to apologize to her.

Q Did you tell Miss Hood that you had thrown her down and she (423)
fell on an object?

A Never told no one that.

MR. TYLER: Will you indulge us a minute, Your Honor?

THE COURT: Yes, sir.

BY MR. TYLER:

Q And did you ever tell Miss Hood that you observed her Studebaker going into the garage?

A Beg your pardon?

Q Did you ever tell Miss Hood that you observed her Studebaker car going into the garage?

A No, I have never told her.

Q Did you ever ask the detectives for permission to speak to Miss Hood?

A No, I didn't. I asked them permission to see a dentist.

Q Did you at any time have occasion to take four dollars from any party on that particular day?

A No, I didn't.

Q When was the first time you saw Miss Hood, the very first time you ever saw her?

A January 15, 1956. (424)

Q That was the date of the lineup, sir?

A That is right.

Q Getting to your conversation with Sergeant McCarthy, when he was questioning you about this particular matter, this rape-robbery, do you recall, sir, the questions that Sergeant McCarthy asked you and the answers you gave him?

A Yes. He written about five or six different cars on a piece of paper. He said, "Do you know the names of those cars?" I said, "Yes." He said, "Which one did Miss Hood drive?" I said, "I don't know.

Q He gave you five or six diferent peices of paper with names of cars, you say?

A One piece of paper, but he had five or six different named cars on it, and he asked me, "Which one did Miss Hood drive?" I said, "I don't know what you're talking about."

Q What did he say then?

A He just took the paper back. He didn't say nothing.

Q Did he ask you any additional questions? (424)

A No, he didn't.

Q Did Sergeant Mackie question you about this particular matter, sir?

A He did.

Q Do you recall the questions that Sergeant Mackie asked you (425) and the answers you gave Sergeant Mackie?

A He asked me did I do it. Some other question he asked me -- I didn't understand it too well.

Q Keep your voice up, they are having trouble on the end again.

A He asked me some other question. I didn't understand it too well, and I asked him to repeat it. He told me here is the way he was going to repeat it, and he pulled his watch off and smacked me beside my head.

Q Just a minute; hold it a minute. Look toward the jury box and answer them.

A He asked me some question. I didn't understand it, and I asked him to repeat the question so I would understand it, maybe I could answer it. He said, "I'm not going to ask you no more." He said, "Here's the way I'm going to ask you." He took his watch off his arm, took his cuffs out of his cuff sleeves, and smacked me beside my head, and that is all. Then this Sergeant Yuter took over from there. He started belting me, kicking me.

Q Did Sergeant Yuter ask you any questions with regard to this particular matter?

A He didn't ask me nothing. He asked me everything with his fist. He didn't ask me no questions at all.

Q Now, in addition to Sergeant Mackie and Sergeant McCarthy -- (426) rather, Officer McCarthy -- who else asked you questions at this particular time with regard to this particular matter?

A Nobody.

Q At the time that you were struck by Officer Mackie -- I beg pardon, Officer Yuter, were any other officers present?

A Sergeant Mackie. This Detective McCarthy, he come in at the time and told him, no use beating me.

Q Keep your voice up, they are having trouble down there.

A This Detective McCarthy -- I reckon that is his name; I don't know the name -- he come in and told him there is no use beating me any more, that is all.

Q Did the members of the Metropolitan Police Department on this particular date ask you to give a statement?

A No, they didn't. (426)

Q Did they ask you to sign any documents?

A He asked me to sign something. I told him I ain't had nothing to sign.

Q At the time he asked you to sign, did he hand you a piece of paper?

MR. McLAUGHLIN: I object to this.

THE COURT: You are leading now, sir. You had better ask him. (427)

BY MR. TYLER:

Q At the time he asked you something, was anything handed to you?

A May I explain who it was handed me something?

THE COURT: You had better answer the question and let counsel put another question to you.

BY MR. TYLER:

Q Was anything handed to you, any identifiable object, at the time he asked you to sign?

A No, sir, not by Sergeant Mackie or Yuter.

Q Was it handed to you by anyone?

A It was handed to me by homicide detective.

Q What was it he handed you?

A He said I would have to volunteer to take the lie detector test on these two murders.

Q Did he hand you anything to sign?

A He handed me a piece of paper to sign. I also read that piece of paper.

THE COURT: Do we know who this is?

THE WITNESS: I don't know that detective's name, but he is on the Homicide Squad.

BY MR. TYLER:

Q Did I understand you correctly to say, sir, that you read this piece of paper?

A Yes, sir. (428)

Q What was on that piece of paper that you read?

A This piece of paper stated that I was volunteering --

Q Just a minute. Talk to the jury. Keep your voice up.

A I hereby volunteer to take this lie detector test. The other part -- I didn't get that part, but I am pretty sure it was no confession or nothing like that, it wasn't, because I understand it, but it explained in those

words further down there -- I can't remember, but I do remember it (428)
say I hereby voluntarily take this lie detector test.

Q Do you recall at any time, sir, pulling your trouser leg up and showing someone a scar or an injury on your leg?

A No, I didn't.

Q Now, do you know who assaulted Miss Hood, sir?

A No, sir, I don't.

Q Did you ever tell anybody that you knew who assaulted her?

A No, I have never told anybody.

Q Did you assault her?

A No, I didn't.

Q Did you ever volunteer to state that you had anything to do with Miss Hood?

A No, I haven't. (429)

Q Did you ever take any money from Miss Hood?

A No, I didn't.

THE COURT: Aren't you repeating, sir? I don't want to cut you off if there is anything you missed, but my recollection is you have covered those.

BY MR. TYLER:

Q Now, Mr. Coleman, I am going to show you Government Exhibit No. 10, and I am going to ask you, can you identify the signature on that particular card?

A No, I can't identify it.

Q Is that your signature?

A No, it isn't.

Q Do you recall signing the card?

A No, I can't recall it.

THE COURT: You say you do not recall?

THE WITNESS: I do not recall signing the card.

MR. TYLER: Would you mark this as Defendant's Exhibit 2, please?

THE CLERK: Defendant's Exhibit No. 2 for identification.

(Defendant's Exhibit 2 was marked for identification.)

BY MR. TYLER:

Q Now I am going to show you Defendant's Exhibit No. 2 for (430)
identification.

MR. McLAUGHLIN: I will have to object to it. All right, go ahead.

MR. TYLER: Is there objection?

MR. McLAUGHLIN: Are you going to offer that in evidence? (430)

MR. TYLER: I will.

MR. McLAUGHLIN: I will have to object to it, Your Honor. As I understand the law, any signature or any writing has to be in existence prior to the time that this is. If he writes something now, he already saw that one.

MR. TYLER: All right, for purpose of identification, may I continue, sir?

THE COURT: For what purpose, sir? If give me any law, I will be glad to hear you.

MR. TYLER: No, sir. This is for identification purposes only. I have here a piece of paper which --

THE COURT: It can be of no use. If you have got anything which will sustain you, I will be glad to hear you on it, but I understand that is not the law. I think the reason is clear to you, sir.

MR. TYLER: Yes, Your Honor.

BY MR. TYLER:

Q Now, you state this is not your signature on this card, sir?

A It is not my signature. (431)

THE COURT: He didn't say that. Now do you want to change that?

BY MR. TYLER:

Q Is this your signature on this card?

A That is not my signature on that card.

MR. TYLER: Does that answer Your Honor's question?

THE COURT: Yes. I understood him to say he did not recall signing the card. Which is the fact?

THE WITNESS: That is not my signature on that card.

THE COURT: All right.

BY MR. TYLER:

Q Mr. Coleman, during the time you were talking to Miss Hood, in the course of your conversation with her, did she have an occasion to leave the room and come back during the course of your conversation?

A Did I have the occasion?

Q No. Did she have the occasion?

A Yes. She went out.

Q And she came back?

A No.

Q She did not come back?

A She didn't come back.

Q So that the conversation, then, that you had with Miss Hood (432)
on the 15th was uninterrupted?

A Right there; nobody in the room.

MR. TYLER: I think that is all at this time, Your Honor.

CROSS EXAMINATION (433)

BY MR. McLAUGHLIN:

Q Are you the same Charles Curtis Coleman who in 1946 was convicted of grand larceny?

A That is right.

Q Are you the same Charles Coleman who in Richmond, Virginia, in 1947 was convicted of robbery?

A That is right.

Q You were arrested on January 15, 1956; is that right?

A No, sir, that is wrong.

Q How?

A That is wrong.

Q When were you arrested?

A January 14, 1956.

Q All right, January 14th. Well, what was the hour, about 12:00 midnight?

A Between 11:00 and 12:00. It wasn't 12:00 o'clock, I am sure.

Q Midnight; is that right?

A No, sir, it wasn't midnight.

Q Well, between 11:00 and 12:00 p. m., we'll put it that way. (434)

A That is right.

Q How?

A That is right.

Q And 12:00 is midnight, that is what we are referring to, about that hour; is that right?

A 12:00 would be midnight.

Q Would be midnight?

A But it wasn't 12:00.

Q It wasn't 12:00. Where were you arrested?

A I was arrested at the hospital, Freedmen's Hospital.

Q What hospital?

A Freedmen's Hospital.

Q And what was your reason for being at Freedmen's Hospital?

A I got cut at a party on my finger.

Q All right, where did you get cut at that party? (434)

A 1742 Swann Street, Northwest.

Q Who cut you, can you recall?

A Sarah Davis.

Q Sarah Davis?

A That is right.

Q And where did she cut you?

A On my finger and on my ear. (435)

Q On your ear.

So that you were at Freedmen's Hospital at the time of your arrest to get treatment for the injuries that Sarah did that night; is that right?

A That is right.

Q So that on January 15th of 1956, those injuries were still noticeable, weren't they, the cut on the ear and the cut on the hand?

While at Freedmen's Hospital, did you receive any treatment for the cut on the ear or the cut on the hand?

A Both of them, I did.

Q Did they take any stitches in them?

A Yes, sir.

Q How many stitches, do you know?

A Fourteen on my finger and two in my ear.

Q Fourteen on the finger and two on the ear?

A That is right.

Q Do you know where the girl was, Sarah?

A At that time, I didn't know where she was after she left 1742 Swann Street, but while I was up to the hospital, I learned that she was down in the 13th Precinct.

MR. TYLER: Keep your voice up, please. The juror on the end is (436) having trouble hearing you.

THE WITNESS: I am sorry.

BY MR. McLAUGHLIN:

Q So that at the time that you were arrested by Officer Stanczak, it was a charge of assault with a dangerous weapon on the girl; isn't that right.

A No. She was the complainant.

Q She was the complainant?

A That is right.

Q And you were brought to No. 13 Precinct by Officer Stanczak (436) and you were booked on that charge, were you not?

A I never was in the 13th Precinct.

Q How?

A I never entered the 13th Precinct.

Q Officer Stanczak didn't bring you to No. 13 Precinct?

A He arrested me and had me brought all the way to headquarters. I didn't enter the 13th Precinct. I was in a truck.

Q You never went to --

A They stopped there, but I did never go into the 13th Precinct.

Q You never hit the 13th Precinct at all on January 15th?

A No, sir. (437)

Q Any part of the day?

A No, sir.

Q Any part of the day at all?

A No, sir, not at all.

Q How?

A Not at all.

A Not at all.

Q You say they stopped at No. 13 Precinct?

A They just stopped there, but I never did get out of the truck, sir.

Q You don't know whether or not you were charged with that offense or not, assault with a dangerous weapon?

A All I know, I was told. I don't know whether I was charged or nothing.

Q Now, you did have those injuries on you when the police questioned you on Sunday afternoon, January 15th, did you not?

A Sunday afternoon, January 15th?

Q Yes, sir.

A I had those injuries?

Q You had the injuries as a result of the cutting?

A I did.

Q How?

A That is right.

Q Now, let us get back to your number writing.

MR. TYLER: Keep your voice up now. The jurors are still having (438) trouble.

BY MR. McLAUGHLIN:

Q In regard to this Euclid Street address, I believe it is (438)
1475 Euclid Street; is that right?

A I don't know the address, but I can describe the building.

Q All right, describe the building to us.

A It is a building right on 15th and Euclid; in fact, there are two buildings there that I go in. Now the Hilltop is the one -- is the brown building. It is a brown brick building. The other one -- I disremember the name -- is the white brick building.

Q All right, and how do you get into the brown building or the Hilltop building?

A How do I get in?

Q Just answer the questions, please. If you don't understand them, I will gladly repeat them.

A Well, I would like for you to repeat that.

Q I say, how did you get in the Hilltop building? How do you go in it to write these numbers?

A Well, I enter the basement.

Q How do you enter the basement?

A They got steps there right at the laundry. You know, there are some steps come right in off the alley at the laundry. At times I go in (439)
that way. If I ring that bell and the janitor don't answer it, then I look in the garage for him. If he is not in there, then I will go to the desk, and they have a boy there on the desk that plays with me, and he generally has numbers, too. Sometimes the janitor will leave his numbers with him if he is gone.

Q You say you go into the garage part of that building?

A Occasionally.

Q I will show you these Government exhibits, Government Exhibits 6, 7, 8 and 9, and ask you whether those exhibits fairly represent the basement of that Hilltop Apartment?

A 7 does.

Q How?

A 7 does.

Q What part of the basement does that represent --

A The entrance --

Q -- 7?

A -- as you come in.

Q As you come in? (439)

A That is right.

Q And does it show in that picture the driveway where the autos come in?

A That is right.

Q And the autos come in the driveway on what street? (440)

A Well, I wouldn't know whether all of them enter there or not.

Q What?

A I wouldn't know whether all of them enter the same -- enter the building the same way or not.

Q Referring to that driveway, I show you Exhibit 8.

A This is from the alley.

Q Does the driveway come in there?

A Yes.

Q How many driveways are there into the basement, do you know?

A No, I don't.

Q How many can you remember?

A Only one.

Q Only one?

A Only one.

Q Have you ever driven a car in there?

A I have left my car parked outside.

Q Oh, you left your car parked outside?

A That is right.

Q And you have been in the habit of going down in through the basement of this Hilltop garage; is that right?

A I have went down there occasionally. (441)

Q You have went down there?

A I have.

Q Did you write any numbers with anyone in the garage part of that building?

A I have.

Q And who did you write numbers with in the garage part of that building?

A The man that does the cleaning up. Sometimes he would be down there in the garage when I go in or I had called for him and I understand for him to go out there, or he will be in the laundry room somewhere: just where he is at, that is where I have to catch him.

Q By that do you mean you would go in there and walk through (441) the entire place looking for this man?

A No. They have a bell at the steps. I ring for him.

Q Well, what did you just start to say, that sometimes you would walk in in the laundry and different places in the basement?

A That is right. Sometimes I will ring the bell, as I said before, and get no answer from the bell, then I go around and I will see him. You see, he is unable to hear that bell all the time from the garage, and if he is out there cleaning up the garage, he wouldn't hear.

Q So that you then walk through and look around and see where (442) he is; is that right?

A No, I don't.

Q You have no certain place to meet him in the garage, do you?

A Well, I don't have no habit of writing numbers out in the lobby or I don't have no habit of letting people see me write numbers.

Q All right, when you would ring the bell and you say this fellow doesn't hear the bell, why, then how would you locate him?

A Then I will go around and look in the garage, and if I don't see him in there moving around somewhere, then I will know he either left his numbers with the elevator boy or girl.

Q Well now, the garage is quite a large place, isn't it?

A Well, I wouldn't know. I have never paid that much attention.

Q How?

A I wouldn't know. I have never paid too much attention to it.

Q I meant, if you walked in the garage to go up to the elevator, how would you get from the garage up to where the elevator man was?

A I never have approached the elevator. I wouldn't know the (443) elevator --

Q Didn't you just say if he wasn't around, that sometimes you would pick them up from the elevator man?

A The operator, the switchboard operator.

Q Oh, the switchboard operator?

A They only had a switchboard operator there.

Q The switchboard operator --

A I can get these from the front.

Q Wait a minute, one at a time. The switchboard operator is not in the garage?

A That is right, he is not in the garage. (443)

Q How would you get from the garage up to the switchboard operator?

A I wouldn't go that way. Then I would come around the front.

Q In other words, you go out of the building?

A I wouldn't go in the building, not from the front, unless I see it is clear, you understand me. If I walk right in the building, then I am in there for writing numbers, somebody sees me. If he motions to me --

Q Who?

A The switchboard operator, and I don't mean the elevator operator, because they don't use the elevator operator in there.

Q How do you know that? (444)

A I do know that. It is a push button.

Q Self service, you mean, elevator?

A That is right.

Q Well, how would you get the attention of the switchboard operator without going in there?

A I can stand on the sidewalk and see him.

Q You would stand and make a signal?

A They have a big glass front. You can see him.

Q You make signals. What is the switchboard operator's name that you played the numbers with?

A I never knew his name, and then he wasn't working there long.

Q How?

A I never knew his name, and he wasn't working there too long.

Q Is he working there now?

A The other one that was working there, whether he was fired or he quit on his own, I don't know, but I know he didn't work --

Q How long had you picked up numbers from him?

THE COURT: Which one is "him," sir, the first or second?

BY MR. McLAUGHLIN:

Q The switchboard operator.

A The second one? (445)

Q No, let's take the first one.

A Oh, the first one. A good little while.

Q How?

A A good little while, but he never did play regular, too regular.

Q What?

A I picked up from him a good little while, but he never (445)
played too regular.

Q Well now, when you say you picked up from him, did you just pick his number bet or did he have a book in the house and turned the book over to you?

A Just his number bet.

Q Oh, just his number?

A That is right.

Q In other words, he had no book in the house and turned it over to you?

A No.

Q Did you have anyone in there writing, have a book in the house, that turned over to you?

A No, I didn't.

Q So you just would get the single number; is that right?

A That is right.

Q Who else did you write numbers for in that place? (446)

A The janitor.

Q All right, and what was the janitor's name?

A Then I had a couple white men.

Q What was the janitor's name?

A I don't know his name.

Q How?

A I never tried to learn his name, and I don't want him to know my name. Anywhere I go writing numbers, I don't want them to know my name and I don't try to learn their name.

MR. TYLER: Excuse me, can you speak a little louder? I want all of the jury to hear back there.

THE WITNESS: Numbers is kind of a secret thing.

BY MR. McLAUGHLIN:

Q Just tell us about what you did.

A I never lets people know my name when I go writing numbers and I don't try to learn their name. If they see my face, they know my face and they know whether I am trustable, as far as they are concerned. They feel they can trust me.

Q How long had you written numbers for the first man, we'll say, the janitor?

A Well, getting around there about five months.

Q About five months? (447)

A Yes.

Q And how long did you write numbers for the second man?

A Well, I couldn't say. I will just say up until the time I got locked up, I had been.

Q Do you know the second man's name?

A No, I don't.

Q What?

A No, I don't.

Q And as far as you knew, they didn't know your name?

A As far as I know, they didn't know it.

Q And you had been writing numbers for those people in that apartment for how long, that is, including everybody?

A About a year.

Q Did any of those people ever get a hit?

A Well, one lady that used to be a maid in there, she hit with me once.

Q How would they know who you were in order to pay off?

A They know me. You see, I used to deliver up there when I was delivering whiskey. That is how I learned them.

(448)

Q How?

A They know me. They used to know me by delivering whiskey up there.

Q Delivering whiskey where?

A That is when I worked for Corcoran wine and whiskey.

Q Oh, you were familiar with that building?

A Yes.

Q You delivered whiskey there?

A Yes, that is right.

Q When was that?

A That was back in the '40s.

Q All right, and would you go in the basement of the garage with the whiskey?

A Well, on occasion I would, but a lot of times we don't have nothing dirty to carry in there, so I can carry that in the front up on the elevator to the apartment.

Q So that you were pretty familiar with that building, weren't you?

A Well, I would say yes.

Q How?

A I would say yes. (448)

Q Well now, when you say you wrote numbers, you wrote numbers, we'll say, for a livelihood: that is how you made your living; isn't that right?

A No. (449)

Q Oh, you had other means of making a livelihood?

A That is right.

Q And what were they?

A Well, I played baseball.

Q You played baseball?

A I do. I played for the Washington Tigers.

Q For who?

A Washington Tigers. They are located -- our park is located in Mitchell Field, Maryland.

Q And how much did you get for playing baseball?

A Well, we didn't have no special salary, but we got a percentage off the gate.

Q And how much was the most you ever got for a game?

A Twenty dollars.

Q Twenty dollars?

A That is right.

Q What position do you play?

A Outfield, right field.

Q Right field?

A Yes, sir.

Q What do you bat?

A I bat left and right.

Q I mean, what is your percentage? (450)

A Well, I haven't kept up with it lately.

Q And you say they pay you twenty dollars a game for playing?

A They just didn't pay me that. That was split.

Q All right, when was the last time that you got any money from playing baseball and who paid you?

A Julius -- I am trying to think of the last game we played that I played with them.

Q How long ago was that?

A That was last year.

Q Last year?

A Yes, sir. (450)

Q You haven't played since last year?

A No, sir. I have been locked up.

Q How?

A I have been locked up in this trouble.

Q You have been locked up since January; is that right?

A That is right.

Q All right, when had you last played?

A The last game we played, we played in Culpeper, Virginia.

Q How long ago was that?

A That was around July.

Q July of last year? (451)

A Yes, sir. That is the last time.

Q How had you been living from July of last year up until January 15th of '56?

A Well, I do part time mechanic, too.

Q All right, where did you do the part time mechanic?

A Just whenever I could get a job.

Q What?

A Just whenever I could get cars to work on. I didn't have no license.

Q Have you got a place where you fix them?

A Well, I carries them around to my uncle's and I use his tools.

Q Where is your uncle?

A 2108 - 16th Street, Northwest.

Q When is the last time you fixed anybody's car and got paid for it?

A The last time I worked on his car.

Q On your uncle's car?

A Yes, sir.

Q Well now, when you say you wrote numbers, what was the amount of your book?

A My book didn't get under forty dollars, -- over seventy something.

Q Forty dollars? (452)

A Didn't get under forty.

Q Forty dollars a day?

A That is right. It would run as high as seventy dollars a day regular.

Q Well now, you had to do quite a bit of running around in the course of a day to write seventy dollars or forty dollars worth of numbers, didn't you?

A Oh, no, you don't have to run around too much. (452)

Q Did you have any place where people came and played the numbers with you?

A I had them to call me. Some would call me that was far away.

Q Call you and put the numbers in over the phone?

A That is right.

Q Who would you turn in to?

A Do I have to answer that, Your Honor?

THE COURT: Yes, That is a proper question.

BY MR. McLAUGHLIN:

Q If you want to, all right, if you don't, it is all right.

A I want to know, do I have to call the person's name?

Q That is entirely up to yourself.

MR. TYLER: I am going to object.

THE WITNESS: I don't want to tell his name. (453)

BY MR. McLAUGHLIN:

Q You don't want to tell the name?

A I don't want to tell his name.

Q What was your percentage?

A Thirty cents off the dollar

Q You got thirty cents off the dollar?

A That is right.

Q And you say that is how you made your living; is that right?

A It is not exactly.

Q With the exception of a few automobile jobs?

A That is right. And then I had the switchboard operating job.

Q All right, where did you have the switchboard operating job?

A At the Sedgewick Apartment, 1722 - 19th Street.

Q And when did you work there?

A In December.

Q How long had you worked there?

A Until I got locked up.

Q How?

A Until I got locked up.

Q Were you working there at the time that you got locked up?

A That is right. (454)

Q And while you were working that job, would you still go to the Hilltop to write numbers?

A I still write my numbers, yes, sir. (454)

Q How?

A Yes, sir, I did.

Q Well now, when you would go to the Hilltop, how would you write the numbers and what would you write them in?

A I had a book.

Q When you say you had a book, did you have a regular number slip book?

A That is right. Well, sometimes I gets kind of scared and I lay off the book and I would use a pad.

Q You would lay off the book. How would you write it?

A Well, when I used my book, I would write them ordinary.

MR. TYLER: Keep your voice up, Mr. Coleman. They are having trouble down there. They can't hear you. Keep your voice up.

BY MR. McLAUGHLIN:

Q The regular number book, that has the triples, is that right, the three slips?

A That is right.

Q Is that the kind you would write on? (455)

That is right.

Q And you carried that around with you all the time?

A Sometimes, and sometimes I had to hide it.

Q All right, now, while in the basement there, did you ever lean on anything to write your numbers.

A I would lean down on -- you have to rest your books: if you don't, you don't get a good print.

Q Do you ever remember leaning your books on this radiator cover to write your numbers?

A I wouldn't say for sure. I wouldn't know for sure.

Q Well, now, what do you mean by that?

A Well, I wouldn't say whether I leaned on it. I couldn't say whether I haven't.

Q Well now, do you remember seeing it in the cellar, in the garage?

A No, I haven't. I don't remember at all.

Q What?

A No, I don't remember seeing it.

Q Would you deny that you ever saw it in that garage?

A No, I wouldn't deny it. I couldn't recall seeing it, and I (455)
wouldn't deny it.

Q What? (456)

A I wouldn't deny whether I have seen it or not. As I say I can't recall.

Q Can you account to the jury here for your palm print being on that exhibit?

A Maybe I did put my number book -- maybe I have stood there and wrote my numbers on it. I wouldn't doubt I have.

Q You wouldn't doubt you have?

A I wouldn't doubt that.

Q I will show you Government Exhibit marked for identification No. 9. Do you ever remember being in that alcove there where that radiator cover was and writing numbers on it?

A I remember being close by.

Q How?

A I remember being close by, where this ladder is sitting here.

THE COURT: I didn't hear you.

THE WITNESS: I say, I probably have been close around about the where that --

MR. TYLER: Would you repeat that?

MR. McLAUGHLIN: Have you got Defendant's Exhibit 1?

THE COURT: I didn't hear it either I will let him repeat it as (457)
soon as --

MR. TYLER: Here it is.

THE COURT: I didn't hear the answer. I don't think Mr. Tyler heard the answer either. Can you --

BY MR. McLAUGHLIN:

Q Showing you Defendant's Exhibit 1, that photograph shows the same location in there, does it not, in that basement.

A That is right.

Q Are you familiar with that immediate section there or location of the garage in the Hilltop?

A I wouldn't say I am familiar with that section, but I will say this.

MR. TYLER: Keep your voice up.

THE WITNESS: If you are suspicious when I am writing numbers and you

come by me, I would have to conceal my book. So if I have been anywhere close to that during the time I was writing my numbers, I figure that somebody seen me, I would conceal my book. (457)

BY MR. McLAUGHLIN:

Q When you say you would conceal your book, do you mean by that that you would run behind that wall?

A Or I would lay it there or probably I would stand there myself. Maybe I can put it in my pocket, but I wouldn't let the person know.

Q Well, in order to put it there on this radiator covering in the location in those pictures, you would have to be behind that wall, wouldn't you, in that alcove there? (458)

A I wouldn't say that.

Q How?

A I wouldn't say that.

Q You wouldn't say that?

A No. Half the time, it wouldn't have to be in there.

MR. TYLER: Keep your voice up.

THE WITNESS: I say, the reason I wouldn't say that is because at the time I was writing my numbers, it didn't have to be in there.

BY MR. McLAUGHLIN:

Q No, you say that at times while you were in the cellar and someone was around and became suspicious —

A That is right.

Q — it would be necessary for you to conceal your book so they couldn't see it; is that right?

A That is right.

Q Now I am asking you, in regard to that photograph which shows this radiator cover back in this small alcove there, would you at times go back in there and write your numbers, or if someone came, you would walk back there to avoid them seeing you?

A Oh, sure, I would, sure, I would. (459)

Q So that you are familiar with that; is that right?

A Sure, I would do that.

MR. McLAUGHLIN: May I show these to the jury at this time, Your Honor?

MR. HARRIS: If Your Honor please, in regard to this, this presupposes that at the time, assuming —

MR. McLAUGHLIN: Oh, no. (459)

THE COURT: Suppose you come to the bench.

THE COURT: Ladies and gentlemen, the pictures which are being (468) handed to you depict the conditions of the place at the time the pictures were taken. I think you have handed them two, haven't you, Mr. McLaughlin?

MR. McLAUGHLIN: Yes, Your Honor. They are the same pictures.

THE COURT: They are the same pictures. One is by the defendant and the other is by the Government.

BY MR. McLAUGHLIN: (469)

Q How many times would you say all together now, over the period of years that you have been going to this Hilltop garage -- how many times would you say you had been in that basement or the garage of that building?

A I couldn't say.

Q How?

A I couldn't say definitely.

Q Can you give us some idea of the number of times?

A No, I wouldn't be able to give you that.

Q Well, would you say it was as much as a hundred?

A I couldn't say that.

MR. TYLER: The jury can't hear you.

THE WITNESS: I couldn't determine how many times I have been in there.

THE COURT: What is your best estimate, an approximation?

THE WITNESS: That would be pretty hard, Judge.

BY MR. McLAUGHLIN:

Q All right, let me ask you this. Over what period of time had you been going into that apartment, how long a period of time?

A About a year.

Q About a year?

A That is right. (470)

Q All right, and would you go to that apartment five days a week?

A I would go there six days a week.

Q Six days a week?

A Sure.

Q In other words, there is no number being written on Sunday; is that it?

A That is right, no numbers on Sunday.

Q So that you would go to this basement six days a week? (470)

A That is right.

Q And would you arrive there at 8:00 o'clock in the morning each time?

A I wouldn't, not each time. Anywhere between 7:00 and 9:00 I would be in there.

Q Between 7:00 and 9:00. What time did you turn your book in?

A About 11:30.

Q About 11:30?

A Yes, sir.

Q So that you had to write that seventy dollars before 11:30; is that right?

A I have to have my book worked up and checked up, ready.

Q So that over a period of years, you have been in that base- (471) ment at least six days each week; is that right?

A You could estimate that.

MR. HARRIS: May Your Honor please, the testimony has been that it is a year. Mr. McLaughlin says years.

MR. McLAUGHLIN: A year.

THE WITNESS: I think I said a year.

THE COURT: I thought he said a year. That is what I understood, a year, ladies and gentlemen.

MR. McLAUGHLIN: That is what I meant to say, a year.

THE COURT: Keep your voice up, please, because we are all having difficulty understanding and hearing you.

BY MR. McLAUGHLIN:

Q Now you testified on direct examination that it is your recollection on November 9, 1955 that you were at your girl's house; is that right?

A That is right.

Q What was your girl's name?

A Teresa Mackie.

Q Teresa what?

A Teresa Mackie.

Q And have you seen Teresa Mackie since this trial has started?

A I have.

Q Now, getting back to the night that you were arrested by (472)
Long, do you remember that?

A By whom?

Q By Officer Long; isn't that his name?

A Long.

Q Long?

A That is right, sir.

Q Do you recall what date that was?

A No, sir, I don't.

Q Do you recall what month it was?

A December.

Q How?

A December.

Q December?

A Yes, sir.

Q You are sure of that?

A I am sure of it.

Q How?

A That is right.

MR. TYLER: Keep your voice up.

THE WITNESS: That is right.

BY MR. McLAUGHLIN:

Q And Officer Long was the one who arrested you for McKenna; is that right?

A That is right.

Q Well now, when you were questioned by McKenna, did he tell (473)
you why he was arresting you?

A Yes, sir.

Q And why did he tell you he was arresting you?

A He said that Officer Long had mentioned over the call box that I was fitting the description of somebody that was doing some robberies and rape and he was looking for him.

Q This is Officer McKenna talking now?

A That is right.

Q Didn't Officer McKenna at that time tell you or question you in regard to a Chinaman?

A Afterwards. (473)

Q How?

A Afterwards, he did.

Q And didn't he tell you the reason why he was picking you up was because of a complaint of a Chinaman?

A No, he didn't.

Q Didn't he tell you at that time that the Chinaman accused you of having a gun?

A He told me that.

Q How?

A Yes, he told me that.

Q And didn't you at that time tell him you didn't have a gun but you had a smoking pipe and the Chinaman thought that it was a gun? (474)

A That is right.

Q How?

A That is right.

Q And didn't he question you further about that gun?

A No, he didn't.

Q During the course of his questioning you about the gun, wasn't the name Bailey used?

A That is right.

Q How?

A That was over at the jail, when they questioned me.

Q No, I meant at the time he had you at the precinct, when you were sent in by Officer Long.

A No, he didn't.

Q The name Bailey wasn't mentioned to you at all?

A No, it wasn't.

Q Wasn't Bailey's name mentioned with you in the same vein as having the gun that the Chinaman complained about?

A No.

Q How?

A No, it wasn't.

Q It wasn't?

A It wasn't. (475)

Q Well now, you deny that; is that right?

A I will have to say no, because it is true, when I say it (475) wasn't so.

Q Well now, this conversation about Bailey, was that pertaining to the gun that you were supposed to have?

A We did not have no conversation about Bailey at all at the 13th Precinct.

Q Well, was the conversation with Bailey about the gun with the Chinaman --

A The conversation me and Mr. McKenna had was concerning rape-robbery and rape. I didn't know nothing about no Bailey at No. 13 Precinct. They didn't ask me a thing about Bailey.

Q Well, the conversation with Bailey, we'll say, at the jail, then. Was that pertaining to a gun?

A He brought that up.

Q How?

A He brought that up.

Q And didn't that relate back to the time of the Chinaman's complaint that you were picked up?

A No, it didn't.

Q Now isn't it a fact that McKenna had sent out a notice to pick you up by name, by Coleman, Charles Coleman, not by any description?

A I don't recall that. (476)

Q How?

A No, sir, I don't recall that.

Q You knew McKenna, didn't you?

A I knew McKenna?

Q Yes.

A See him every day.

Q That is what I say. Before you were picked up?

A That is right. See him every day.

Q Now in this conversation with McKenna, weren't you questioned about two robberies in the 1700 block of Florida Avenue?

A Where they were. I don't know, but I was questioned about robbery and rape.

Q Well now, didn't McKenna mention to you the location of those two alleged robberies?

A No, he didn't. (476)

Q How?

A No, he didn't.

Q Did he mention to you the names of the two women who had been --

A No, he didn't.

Q He didn't go into detail at all?

A He didn't mention no names.

Q And he didn't describe the women to you? (477)

A No, he didn't.

Q How?

A No, he didn't.

Q Did he describe to you or in that conversation say anything to you --

A He described to me the crimes.

Q All right, did he describe to you how the crimes were committed?

A He did tell me.

Q The robberies?

A And the rape, too.

Q How did he tell you that the robberies were committed?

A He told me how the robberies were committed and how the rape, just how they were, and how he told me, I wouldn't be able to determine that, because I didn't at the time, I didn't have that on my mind.

Q Did he tell you the dates that those robberies had been committed?

A No, he didn't say what date it was on.

Q Did he ask you to tell him where you were on any particular date the robberies took place?

A He did.

Q All right, now, when you just testified, you just said that (478) he didn't mention any dates to you of these robberies.

A No, he only asked me where was I.

Q What dates did he ask you where you were?

A On one date, he asked me where was I on the 11th.

Q On the what?

A On the 11th. He didn't say when the robbery happened.

Q The 11th of what?

A The 11th of November. I told him I was at the Laurel race track.

Q Where?

A Laurel race track. (478)

Q You didn't write any numbers that day, did you?

A Yes, I did.

Q Did he tell you the name of the lady who was supposed to have been robbed on November 11th?

A No, he didn't.

Q Did he ever confront you with the lady that was supposed to (479) be the complainant on November 11th?

A No, he didn't

Q All right, what other date did he ask you about?

A That is the only one.

Q How?

A That was the only one.

Q And was that the lady on November 11th who was supposed to say you had a scar?

A I wouldn't know.

Q How?

A I wouldn't know.

Q Well now, did Officer McKenna at any time fingerprint you?

A He didn't have to. He asked me had I been locked up. I told him yes, I was locked up down there on an assault and I was already fingerprinted in the 13th --

THE COURT: The question is, did he fingerprint you? (480)

THE WITNESS: He didn't fingerprint me.

THE COURT: All right, sir.

THE WITNESS: He did go as far as to look my fingerprints up, and they were there.

BY MR. McLAUGHLIN:

Q Looked your fingerprints up where?

A In the 13th Precinct.

Q Well now, they don't have fingerprint cards in the 13th Precinct, do they?

A They fingerprinted me in 13.

Q Who fingerprinted you?

A A little, small detective.

Q When?

A Last year, 1955.

Q Oh, last year. But they don't keep a file of fingerprints (480) in No. 13. They are sent to headquarters, aren't they?

A I don't know, but I know I was fingerprinted there.

Q But you weren't fingerprinted this date that McKenna had you?

A No, I wasn't.

Q How?

A No, I wasn't.

Q Now, when you were brought to Police Headquarters, when was (481) the first time that you saw Officer Mackie and Officer Yuter?

A I will say about a half hour after I went to headquarters.

Q What?

A I will say about a half hour after I went to headquarters, exactly what time I would not know.

Q What time of the day was it?

A It was night.

Q How?

A It was at night, in the night time.

Q You mean, when you were brought down in the early morning?

A Whether it was early morning, I don't know or not, but I know it was dark.

Q You saw Mackie and Yuter?

A Mackie and Yuter, that is right.

Q Isn't it a fact you didn't see Mackie and Yuter until later, late in the afternoon, on Sunday afternoon?

A They were the first ones that approached me after I went through the lineup and come out.

Q Well, when you had the lineup, wasn't that late in the afternoon, Sunday afternoon?

A We had four lineups, and I would know how long it took to (482) perform them.

Q Well, don't you know that the lineup on Sunday are about 12:00 or 1:00 o'clock in the afternoon?

MR. TYLER: He wouldn't know that, Your Honor. I object.

MR. McLAUGHLIN: Well, if he knows.

MR. TYLER: He can ask him a question.

MR. McLAUGHLIN: I just asked him if he knew.

THE COURT: Do you know? (482)

THE WITNESS: I wouldn't know.

BY MR. McLAUGHLIN:

Q How?

A I wouldn't know.

Q When you say this lineup, who conducted the lineup?

A That I wouldn't know.

Q Didn't Officer Mackie tell you to walk up on the platform?

A Officer Mackie did not tell me to walk up on the platform.

Q At no time that afternoon?

A No, he didn't. He never did tell me.

Q How many people were in the lineup?

A It was about eight of us.

Q Eight?

A That is right. (483)

Q Did you all come out on the platform at one time?

A That is right.

Q Do you recall what position you were in lineup?

A I don't know.

Q Didn't they ask you what position you wanted to take in the lineup?

A No, they didn't.

Q They put you in the lineup?

A That is right.

Q Who put you in the lineup?

A Up in the waiting room, where you wait to go in.

Q In other words, they put you behind a certain man; is that right; is that what you are telling us?

A In other words, they put you in the lineup along with the rest of the men, regardless of where you get.

Q Don't you just fall in to the lineup yourself as you walk up?

A Yes, any way.

Q That is what I say, any place you want?

A But they tell you to get in.

Q So they didn't place you in any particular spot in the lineup? (484)

A No, they didn't.

Q And then you walked out on this platform; is that right?

A That is right. (484)

Q Did you see Miss Hood at that time?

A I didn't see no one at that time.

Q You didn't see anyone from the lineup because of that mesh. You can't see out; is that right?

A That is right.

Q And the lighting condition?

A That is right.

Q So you don't know how many people are out there looking at you, do you?

A No, I wouldn't.

Q How?

A That is right, I wouldn't know how many are out there.

Q Now, after the lineup, did you see Miss Hood at that time?

A We come down. We had another lineup. We had another lineup, but we didn't go behind the screen.

THE COURT: Excuse me, I am losing you. Did you see Miss Hood at that time, the lineup which you have just talked about?

THE WITNESS: No, I didn't. (485)

THE COURT: The answer is no, all right.

BY MR. McLAUGHLIN:

Q You didn't see Miss Hood at that time?

A No, I didn't.

Q Did you see any woman at that time after that first lineup?

A Yes, I seen some women in the next lineup.

Q What?

A In the next lineup, I seen some women.

THE COURT: Mr. McLaughlin, excuse me, he didn't answer your question, if you want it: Did you see any woman after the first lineup that you spoke of?

THE WITNESS: Yes, sir, I seen some women.

BY MR. McLAUGHLIN:

Q After the first lineup?

A That is right.

Q You saw some women; is that right?

A That is right.

Q And where were you at that time when you saw those women?

A Standing down next to the audience, down in front of the (485)
screen.

Q That is, as they are brought out front?

A That is right.

Q Do you remember the names of any of those women? (486)

A No, I don't.

Q How?

A No, I don't.

Q If I told you the names of those women, some of those women, would you recognize the names?

A No, I wouldn't, because I never heard them called before.

Q You never heard them at any time?

A No, I didn't.

Q You never heard the names since that time?

A Yes, I have. I heard, you know, being called the names, who was around there.

Q Is one of the women's name Miss Jackson?

A I wouldn't know her, but I have heard the names of them.

Q Well, I say, you have heard the names since; is that right? (487)

A That is right.

Q And was one of those women in that lineup, was her name Jackson?

A Jackson? I wouldn't know.

Q How?

A I wouldn't know whether she was in the lineup or not.

Q No, I say, not in the lineup — I meant that first lineup, when you say you saw some women after the lineup.

A The first lineup?

Q Yes. Was one of the women that you saw by the name of Jackson?

A Yes, she was there.

Q What?

A She was there.

Q She was there at the first lineup; is that right?

A That is right.

Q Did I understand you on direct examination to say that at no time were you identified by anyone?

A I didn't say that.

A I didn't say that. (487)

Q What?

A I didn't say that.

Q You didn't say that? (488)

A No, I didn't.

Q All right, we'll get by the first lineup. Then you say there was a second lineup.

A Third and fourth.

Q Third and fourth.

Now at the second lineup, after the second lineup, did you see Miss Hood?

A No, I didn't.

Q What?

A No, I didn't.

Q After the second lineup, did you see any other women after the lineup?

A After the second lineup?

Q Yes.

A I did.

Q And do you recall any of the names of those women?

A No, I don't.

Q Did you hear of the name after that?

A Miss Jackson's name. I heard her name called.

Q Miss Jackson, you say, was after the first lineup. The second lineup: if you heard the name of one of the women who was there, would you recognize it?

A No, I wouldn't.

Q Was there a woman there by the name of Miss Miller? (489)

A I wouldn't recognize that.

(In open court:) (494)

THE COURT: Ladies and gentlemen, in the interest of time, and having consulted with counsel, who will check the Court at the completion of this statement, I have been told and advised that while there has been mention of four lineups, the only one which concerns you is the one involving Miss Hood. That is the one. The others are not material to the case. (495) That was the one where Miss Hood was supposed to have been at as you determine the evidence in the case. Is that a fair statement?

MR. TYLER: Yes, sir. (495)

THE COURT: Is that a fair statement to you, too, Mr. McLaughlin?

MR. McLAUGHLIN: Yes.

THE COURT: All right, sir.

Now, Mr. Witness, the marshal advised me the jurors on the other end are having difficulty because of the soft way you speak. It is important to you that you speak up, please.

BY MR. McLAUGHLIN:

Q You saw Officer Sullivan on the stand, did you not, the police officer who testified that he took your fingerprints?

A That is right.

Q Do you remember him taking your fingerprints?

A No, I didn't.

Q Did a police officer similar to him take your fingerprints at Police Headquarters?

A He probably was the one, but I don't remember.

Q What?

A He probably was the one, but I don't remember.

Q He probably was the one that took your fingerprints; is (496) that right?

A I don't remember him.

Q In other words, you wouldn't deny that he was the one who took your fingerprints, would you?

A I couldn't.

Q You couldn't.

Now getting back to the time when you saw Miss Hood, where was Miss Hood the first time that you saw her on January 15, 1956?

A She was in the Sex Squad.

Q Did she talk to you at that time?

A Not right then, she didn't.

Q Well, now, when you say the Sex Squad office, the Sex Squad office, the length of it is about as long as from that wall (indicating) to that wall (indicating) to here and about this length (indicating); isn't that how deep the office is?

A It is about as wide as this box (indicating), the jury box.

Q About as wide and about as deep as this, as far as from here to the wall (indicating); isn't that right?

A No, sir, it isn't. (496)

Q Well, is it longer than that or deeper than that?

A It is closer than that.

Q Oh, it is smaller? (497)

A Yes, that is right.

Q And then as you come in off the main hallway, it is a room about -- what would you say, about 4 by 6 or 4 by 8?

A It is made just like that jury box (indicating).

Q Like that?

A That is right.

Q Now when you saw Miss Hood, where was she?

A I was already sitting in there when they brought her in there.

Q Did they bring her right up to where you were?

A That is right.

Q Well, that was right after you had been in the lineup; isn't that right?

A It was a good little while after I had been in the lineup, too.

Q What?

A A matter of hours, hours.

Q You mean that as far as you know, was Miss Hood in the building at the time that you were in the lineup?

A I didn't see Miss Hood in the lineup at no time.

THE COURT: Mr. McLaughlin -- the witness may help me, too -- are we talking about the lineup which Miss Hood attended?

MR. McLAUGHLIN: Yes, Your Honor. (498)

THE COURT: Do you understand that, Mr. Witness?

THE WITNESS: Yes, sir.

BY MR. McLAUGHLIN:

Q You say that you didn't see Miss Hood until you had been out of the last lineup for about two hours; is that what you are telling us?

A I didn't say two hours. I said for hours. It was more than hours before I seen Miss Hood.

Q How?

A It was more than hours, hours, when I seen Miss Hood.

Q And where was Miss Hood at that time?

A She was brought in the room where I was.

Q You were in the Sex Squad office? (498)

A That is right.

Q And who was with Miss Hood at that time?

A Sergeant Mackie.

Q Was there anyone else?

A There was another lady with her.

Q You saw the doctor on the stand, Dr. Purse, did you not?

A I didn't recognize her as the same lady, but it was another lady with her.

Q Can you tell us whether or not the lady that was with Miss (499) Hood on January 15th was an elderly lady?

A Yes.

Q Was she up in years?

A Yes.

Q And did she have gray hair like Dr. Purse?

A I didn't pay too much attention.

Q What?

A I didn't pay too much attention to the hair.

Q You wouldn't deny that it was Dr. Purse who was with her that day, would you?

A I couldn't deny and I couldn't say it was.

Q And at the time that you talked to Miss Hood, where was Dr. Purse? How close to Miss Hood and you was Dr. Purse?

A I couldn't say.

MR. TYLER: Your Honor, I am going to have to object, because he stated he doesn't know if it was Dr. Purse or not.

BY MR. McLAUGHLIN:

Q An elderly lady, let's put it that way.

A The lady -- I wouldn't know just about how close she was standing.

Q Well, at the place where you were, were there chairs around there?

A About three chairs.

Q And who sat in the three chairs? (500)

A I was sitting in one and Miss Hood was sitting in one.

Q And who sat in the other?

A Sergeant McCarthy.

Q Sergeant McCarthy?

A That is right.

Q And where was the elderly lady? (500)

A She was standing amongst the other detectives.

Q That would be how close to you?

A Within feet.

Q Now, did you say anything to Miss Hood at that time?

A No, I didn't, not right then.

THE COURT: Now, Mr. Witness, the juror on the end didn't hear you again. We have been trying, and your counsel has asked you repeatedly to keep your voice up and not talk so softly. You missed something, Mr. Juror?

MR. McLAUGHLIN: I'll try to get it, Your Honor.

THE COURT: All right.

BY MR. McLAUGHLIN:

Q In regard to this elderly lady as to where you were sitting, how close to you was she, this elderly lady who was with Miss Hood?

A Well, I couldn't say exactly, but it was within feet.

Q Within feet?

A That is right.

Q Well now, can you point out some object so we will know what you mean?

A No, I couldn't.

Q Would you say she was as close as that gentleman sitting there (indicating), the deputy marshal, this one right here with the glasses?

A No, she wasn't that close.

Q How far, well, tell us.

A She was back off of me. I was surrounded by detectives and she couldn't have got too close to me.

Q Well now, had the detectives Yuter and McCarthy beaten you at that time?

A No, they hadn't.

Q They hadn't beaten you up to that time?

A That is right.

Q And there were no marks at all upon you at the time that you talked to Miss Hood as a result of any beatings?

A No.

Q In other words, any marks or injuries that you had on you at that time were inflicted when this difficulty arose with this girl earlier in the morning or the night before?

A Yes, my finger. (502)

Q And how about the ear?

A Yes, the ear, too.

Q The ear, too?

A Yes.

Q Did Miss Hood talk to you at that time?

A She didn't talk.

Q She didn't say anything?

A Not to my knowing, she didn't say anything.

Q Well, who did all the talking there at that meeting?

A Sergeant Mackie and Sergeant McCarthy.

Q What did Sergeant Mackie say at that time?

A He just verified Sergeant McCarthy's statement. He said, "Go ahead, Charles, tell them. Go ahead and apologize to her?

Q When you say, "verified McCarthy's statement," what did McCarthy say?

A He asked me to apologize to the lady.

Q Well now, had McCarthy at that time given you the lie detector test?

A No, he hadn't. He didn't give me none at all. I didn't get no lie detector test.

Q By McCarthy?

A That is right. I didn't get none at all.

Q So McCarthy told you to what? (503)

A To apologize to the lady. He said, "Go on and apologize to her."

Q All right, now, what conversation or what talk did you have with McCarthy before he told you that?

A He asked me about the charge, about, you know, the case.

Q All right, when and where was McCarthy asking you about that case before --

A In the Sex Squad.

Q That was before you saw Miss Hood.

A That is right.

Q And who was present at the time that McCarthy was asking you?

A He was alone.

Q Had you talked to Yuter and Mackie before?

A That is right.

Q And had you talked to them about Miss Hood?

A No, I hadn't. I only talked to them about the charge. They (503)
hadn't mentioned her name or nothing.

Q They hadn't mentioned Miss Hood's name at all to you?

A That is right.

Q Let me ask you this. Do you recall whether or not they had to send out of the building to bring McCarthy in?

A To bring him in? (504)

Q Yes.

A No. He was in there. He come in there.

Q So that where he came from you don't know?

A In fact, he got in the Sex Squad at the same time I did.

Q He got in the Sex Squad at the same time you did?

A The man let him in there.

Q This is McCarthy now we are talking about?

A That is right.

Q You mean him, the man with the scar?

A That is him, that is right.

Q And he told you to go ahead and apologize to the woman; is that right?

A That is what he said.

Q Now, had you told anything to McCarthy?

A Had I told anything to him?

Q That would cause him to tell you to apologize to this lady?

A I hadn't told him nothing. I had nothing to tell him.

Q You had nothing to tell him?

A How could I tell him?

Q So that you gave him no reason at all to tell you to (505)
apologize to this lady; is that right?

A I didn't give him no reason at all.

Q After that, what happened; what did they do then?

A After he told me to apologize to the lady, I told the lady, I said, "I do not have no apologies to make to you. I haven't did anything to you. Why should I apologize?

Q Was this elderly lady there at that time?

A That is right, she was. She was standing.

Q Then what happened?

A Sergeant Mackie take her out, and her and this other lady, (505) they went out. Sergeant Yuter told me, he said, "You try to be a smart guy?"

Q All right, now where were you at the time that Sergeant Yuter is talking to you?

A In the Sex Squad.

Q In the same office?

A That is right.

Q And were you seated in the same chair that you were when Miss Hood was there?

A That is right.

Q All right, and who was present when Yuter had this conversation with you?

A No one but him and McCarthy.

Q Him and McCarthy?

A That is right. (506)

Q All right, now, what did Yuter do?

A Yuter just told me I was a smart guy. McCarthy got up and left out. Sergeant Mackie came then, Sergeant Yuter smacked me up beside of my head.

Q When he smacked you, did he hit you with the open hand or did he close it?

A He hit me with his hand and with his fist, and then he kicked me with his feet, too.

Q Did he leave any marks on your face?

A No, he didn't.

Q Did he hit you in the eye?

A No. He hit me up beside my head (indicating). He even took the telephone book and hit me on top of the head.

Q He hit you on the head?

A That is right.

Q Where else did he hit you?

A Then he hit me on my finger when I went up to block my — like I told him, "What you bust my stitches for?" He said, "To hell with the stitches." He bust them out there, and he left me here and bust them out there.

Q That is the ear that was cut that morning?

A That is right.

Q What other marks did you have on your face?

A I didn't have anything but this cut here on my finger and my (507) ear.

Q And those are the cuts that you got from your girl friend? (507)

A That is right.

Q Now, after Yuter —

A It wasn't my girl friend.

Q It wasn't your girl friend?

A No, it wasn't.

Q It was at this girl's house that you got cut, wasn't it?

A She had a party.

Q I see. Where else did Yuter beat you?

A Taken me around to where they give lie detector tests.

Q Who took you around to where they give the lie detector tests?

A Him and McCarthy. McCarthy came back in and told him, he said, "There's no use beating that boy like that." He said, "Come on, Charles, I'm going to carry you around here. He'll give you a lie detector test." He carried me around, and I never did get the lie detector, and I got a beating, still a more beating.

Q Who gave you the beating around there?

A The same two.

Q What same two?

A Yuter and Mackie. (508)

Q Now when they beat you around there, did they punch you in the face?

A Punched me all over my chest, stomach and my ribs, everywhere.

Q Did they hit you about the face?

A Sure, they did.

Q Did you have any marks on your face?

A Not from them. I was swollen up a little bit here on my jaw (indicating).

Q As a result of the beating they gave you?

A That is right.

Q After you were brought back by McCarthy and Yuter, you say, in the back room, you were again confronted by Miss Hood, weren't you?

A I didn't see Miss Hood but one time.

Q Well now, was the elderly lady with her only that one time?

A When I seen her, yes, sir.

Q How?

A That is right.

Q Didn't Miss Hood talk to you the second time? (508)

A She hasn't seen me the second time.

Q Well now, you deny that you told Miss Hood that you were in that basement that night?

A I denied. (509)

Q Do you deny that you ever told her that you took money from her?

A I deny that, too.

Q In other words, that didn't happen?

A Not to me.

Q I meant on the night of January 15th, at Police Headquarters.

A Not by me.

Q So that regardless of the beatings that the police officer gave you, you did not confess to Miss Hood that you robbed her?

A And no one else.

Q And no one else?

A That is right.

Q At no time?

A That is right.

Q So the beating did not produce any confession?

A That is right. The beating didn't produce nothing.

Q Or any admission on your part?

A Beg your pardon?

Q Or any admissions, you didn't admit --

A I didn't admit --

Q -- being in the basement?

A I couldn't admit something I didn't do.

MR. McLAUGHLIN: I believe that is all I have of this witness.

CHARLES C. COLMAN, (513)

the defendant herein, having previously been duly sworn, was examined and testified further as follows:

CROSS EXAMINATION (cont'd)

BY MR. McLAUGHLIN:

Q In regard to these police beating you, did you say anything to Miss Hood at the time you had been beaten by the police?

A No.

Q And at the time that you were there, did you talk to a woman by name of Miss Jackson?

A No, I didn't. (513)

Q Was she present at that time?

A No, she wasn't.

Q She didn't see you at all that night? (514)

A No, she had seen me then.

Q At the beatings?

A No, she didn't.

Q Did she see you later?

A That is right.

Q Did you complain to her that you had been beaten?

MR. TYLER: I will have to object to that.

MR. McLAUGHLIN: All right, if he objects, Your Honor, I wouldn't ask it. That is all.

THE COURT: Did you have any questions?

MR. TYLER: No, sir.

BERTHA T. MACKIE

was called as a witness by and on behalf of the defendant, and after being duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. TYLER:

Q Miss Mackie, will you state your full name?

A Bertha Teresa Mackie.

MR. TYLER: Can everybody hear down there on the end? Keep your voice up, Miss Mackie, so all the jury can hear you.

Q Miss Mackie, where are you presently residing?

A Beg pardon?

Q Where are you presently residing? Where do you live?

A 1705 Lawrence Street, Northeast.

Q Were you so residing there on November 9, 1955?

A Yes.

Q Miss Mackie, do you know the defendant here seated to my left, Charles Coleman?

A Yes.

Q Approximately how long have you known Charles Coleman?

A About five or six months.

Q On or about November 9, 1955, Miss Mackie, what was the (515-516)

relationship, or was there any relationship, between you and the (516)
defendant Charles Coleman?

A Yes.

Q What was that relationship?

A Friends.

Q And how often did you see Charles Coleman?

A About twice a week.

Q Were there any particular days during the week in which you saw Charles Coleman?

A Most of the days were Wednesday and Friday.

Q Where would you see him on Wednesdays?

A In my home.

Q Where would you see him on Fridays?

A In my home. (517)

Q Now, when he came there on Wednesdays and Fridays, what time did he usually get there?

A About 6:30.

Q And what time would he usually leave?

A Between 11:30 and 12:00.

A Between 11:30 and 12:00.

Q Now I am calling your attention to the week of Wednesday, November 9, 1955. Did you have an occasion during that week to see the the defendant Charles Coleman?

A I don't know.

Q Did you see him after the week of Wednesday, November 9th? (519)

A No.

Q Now, Miss Mackie, I believe you stated you had known him for five months prior to November 9, 1955. Do you know of other people who also know the defendant Charles Coleman?

A Yes.

Q Now, among those people whom you know that know the defendant Charles Coleman, what is his reputation as to truth and veracity?

A Good.

BY MR. McLAUGHLIN: (521)

Q Now, Miss Mackie, you say you live where at the present time?

A Beg pardon?

Q Where do you live?

A 1705 Lawrence Street, Northeast. (521)

Q Don't you live in North Carolina?

A I live in South Carolina. My home is in South Carolina.

Q The Government subpoenaed you up here from North Carolina for the defendant, did it not?

A From South Carolina, yes.

Q South Carolina?

A Yes.

Q Let me ask you this question, Miss Mackie. Do you have any present recollection of what happened on November 9, 1955?

A From what I heard .

Q How?

A I don't understand your question.

Q My question is this: Do you yourself have any present (522) recollection of what happened on November 9th of 1955?

A No.

Q So that when you testified here as to things happening on November 9th of 1955, your recollection was refreshed by someone; isn't that right?

A Yes.

Q How?

A Yes.

Q And your recollection was refreshed by whom?

A My uncle and aunt.

Q But you yourself had no present recollection?

A No.

Q Had you been interviewed before?

A Before I came here?

Q Yes, ma'am.

A No, I haven't. (523)

Q By anyone in behalf of the defendant?

A Yes.

Q How long ago was that?

A I think it was about two or three weeks after Mr. Coleman was arrested.

Q About two or three weeks?

A Yes.

THE COURT: Have you anything further of the witness? (525)

MR. TYLER No.

MR. McLAUGHLIN: I have nothing.

THE COURT: All right, you may be excused.

JAMES R. WILSON (526)

was called as a witness by and on behalf of the defendant, and after having been duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. TYLER:

Q Would you state your name, sir, in a loud, clear voice?

A My name is James Reginald Wilson.

Q Where do you live, Mr. Wilson?

A 1635 V Street, Northwest.

Q Mr. Wilson, do you know the defendant sitting at my left, Charles Coleman?

A I do.

Q Approximately how long have you known him, sir?

A I will say a year or better.

Q Mr. Wilson, do you know of others who also know Mr. Coleman?

A You say others?

Q Do you know other people who also know Mr. Coleman?

A Yes, I do.

Q Among those people who know Mr. Coleman, sir, what is his (527) reputation as to truth and veracity?

A Well, his reputation to me, so far as I know --

THE COURT: No, it is not you. It is his reputation among the other people that you know who know him, if you know.

THE WITNESS: Well, I don't know about other people.

ORLANDO THOMPSON (528)

was called as a witness by and on behalf of the defendant, and after having been duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. TYLER:

Q Would you state your full name?

A Orlando Thompson.

Q Where do you live?

A 1727 U Street, Northwest.

Q Do you know the defendant seated to my left, Charles Coleman? (528)

A Yes, I do.

Q Did you know Charles Coleman on or about November 9, 1955?

A Yes. He lived in my house about that time.

Q He lived in your house at that time?

A Yes.

Q And how long had he been living in your house?

A Approximately two years.

Q On or about the week of November 9th, was he delinquent in his rent?

A No. He always paid his rent in advance.

Q He always paid in advance, sir. Now do you know offhand, (529) sir, to the best of your recollection, how far in advance he was in the week of November 9th?

A No. He has always paid a week in advance. That was the agreement.

Q Mr. Thompson, do you know of other people who also know Charles Coleman?

A People around the neighborhood, yes.

Q Among those people who know Charles Coleman, what is his reputation as to truth and veracity?

A Well, everybody gave him the name as being a good fellow, everybody I talked to, including me.

MR. TYLER: I have no further questions?

CROSS EXAMINATION

BY MR. McLAUGHLIN:

Q Do you know what kind of work he did?

A I think he was switchboard operator in some apartment house. I think that is the last job I heard him say he was on.

Q Did he ever tell you he was writing numbers?

A No.

MR. McLAUGHLIN: That is all.

MARIE THOMPSON (530)

was called as a witness by and on behalf of the defendant, and after having been duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. TYLER:

Q Would you state your name, please?

A Marie Thompson.

Q You are the wife of the previous witness on the stand, (530)
Mr. Thompson?

A I am.

Q Do you know the defendant seated to my left, Charles Coleman?

A I do.

Q Do you know of other people who also know the defendant Charles Coleman?

A I do. (531)

Q Among those people whom you know that also know Charles Coleman, will you tell us his reputation as to truth and veracity?

A I do.

Q What is his reputation as to truth, telling the veracity?

A Very good.

MR. TYLER: I have no further questions.

CROSS EXAMINATION

BY MR. McLAUGHLIN:

Q Did you know what kind of work he did, madam?

A No, I do not.

SULVAN YUTER

recalled as a witness by and on behalf of the Government, in rebuttal, was and having previously been duly sworn, was examined and testified further as follows:

DIRECT EXAMINATION

BY MR. McLAUGHLIN:

Q Officer Yuter, on January 15, 1956, any time on that day that you saw the defendant, Mr. Coleman, did you at any time strike or hit him the defendant, Mr. Coleman, did you at any time strike or hit him about the face or body?

A I did not.

Q Did you at any time strike him over the head with a telephone book?

A No, sir.

Q Did Officer Mackie or Officer McCarthy or any other police officer of the Metropolitan Police Department strike this defendant in your presence at any time on January 15th of 1956?

A They did not.

MR. McLAUGHLIN: That is all.

BY MR. HARRIS:

Q Did you observe the defendant on that day, Officer?

A Yes, sir.

Q Did you notice whether or not there were any scars about him?

A Yes, sir. He had a cut apparently, I believe, on his left ear, and it was stitched, a little dry blood around there.

Q Did you notice any other marks about his person?

A He had a cut finger.

Q Did you strike him up against that injured ear?

A I did not, sir.

Q Did you hit him on the head with a phone book?

A I did not.

Q Did you strike that injured hand?

A I did not.

Q Would you tell us if you did?

MR. McLAUGHLIN: I object.

THE WITNESS: I certainly would.

THE COURT: He had answered that.

JAMES McCARTHY (534)

was recalled as a witness by and on behalf of the Government, in rebuttal, and having previously been duly sworn, was examined and testified further as follows:

DIRECT EXAMINATION

BY MR. McLAUGHLIN:

Q Officer McCarthy, on January 15th of 1956, did you actually give this defendant Coleman the lie detector test; did you actually put him on that lie detector?

A I did, sir.

Q Now on January 15, 1956, Officer McCarthy, did you at any time strike or kick or abuse this defendant in any fashion?

A I did not.

Q Did any police officer, Yuter or Officer Mackie or any other member of the Metropolitan Police Department, in your presence on January 15, 1956, strike or beat or kick or abuse this defendant in any shape, form or fashion?

A No, sir.

MR. McLAUGHLIN: That is all.

was called as a witness by and on behalf of the Government, in rebuttal, and after having been duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. McLAUGHLIN:

Q Miss Jackson, your full name is what?

A Mrs. Ann Madison Jackson.

Q Where do you live?

A 167 - 35th Street, Northeast.

Q Calling your attention to January 15, 1956, do you recall being in Police Headquarters on that day?

A Yes, I do.

Q Do you recall seeing the defendant, Mr. Coleman, here? (537)

A Yes.

Q And how long were you in his presence on that date, do you recall?

A At Police Headquarters?

Q Yes, ma'am.

A Well, I mean, just as long as it took them to bring him out on the lineup and I identified him.

Q Did you later see him in the Sex Squad room?

A Yes.

Q Was Officer Mackie and Officer Yuter there at the time?

A I don't know.

Q Do you recall what police officers were there?

A I saw one that I recognized, and that was Stanczak. I don't know if he is a detective or sergeant.

Q While you were at Police Headquarters on January 15, 1956, did you see any members of the Police Department beat the defendant, Mr. Coleman?

A No, sir.

MR. McLAUGHLIN: That is all.

MR. TYLER: No questions, Your Honor.

THE COURT: All right, you are excused.

MR. McLAUGHLIN: That is all the Government has, Your Honor.

MR. TYLER: That is all the defense has. (538)

MR. HARRIS: May we approach the bench, Your Honor?

THE COURT: Yes.

(At the bench:)

MR. HARRIS: May it please the Court, at this time, Your Honor, we (538) renew our objections and motions and again ask Your Honor to direct a verdict of acquittal on Count 1, pointing out that to permit the case to go the jury on Count 1 means that there is too much left for speculation and conjecture, in that there is no testimony here, direct testimony, that would show that there was any carnal knowledge of this complaining witness, and therefore the jury is left in the posture that, first, it must draw the premise that she was raped. There is no direct testimony that she was. Then they must draw another inference that it was this defendant who raped her. There you have the situation of an inference, and therefore, under the law in this jurisdiction, that is not permissible. I say, certainly, it would be entirely too conjectural and speculative to permit it to go to the jury.

THE COURT: I will deny your motion. I think there are sufficient facts to permit it to go to the jury.

MR. HARRIS: Again, just for the sake of the record, Your Honor, we have put all our objections in and renewed all motions, and so forth. (539)

THE COURT: Certainly.

CHARGE TO THE JURY (580)

THE COURT: Ladies and gentlemen, the defendant Charles C. Coleman is charged in a two-count indictment with two crimes, the first count charging him with the offense of rape and the second count charging him with the offense known to the law as robbery.

It is the duty of the Court, as you know by now, ti instruct you as to the law of the case, namely, the rules and principles applicable to the particular case on trial, and you are bound and obligated to follow those rules and principles. On the other hand, you ladies and gentlemen are the sole judges of the facts. It will be for you to determine all issues of fact from the testimony adduced from the witness stand and in conformity (581) with your recollection thereof. Counsel for the Government and counsel for the defense both have the right to make opening statements indicating to you what they hope to be able to show, and at the conclusion of the case to sum up, indicating to you what they believe each side has been able to show or has in fact shown. If, however, your recollection be at variance with the recollection of either or both of counsel on any factual question, or the Court, for that matter, it will be your recollection which will control.

The fact that this defendant has been indicted, as I have already (581) indicated to you, is not to be construed by you as evidence. It is not. Its sole purpose is to advise a defendant of the charge or charges which he must face when the case comes on for trial. It is not evidence.

Every defendant in a criminal case is presumed to be innocent, and this presumption of innocence attaches to the defendant throughout the trial. He is not required to prove himself innocent or produce evidence on the subject. The burden of proof is on the Government to prove the defendant guilty beyond a reasonable doubt, and unless the Government sustains this burden and proves beyond a reasonable doubt that the defendant committed the crime or crimes with which he is charged, and each essential element thereof, then you must find him not guilty as to such charge or charges.

You may not speculate or conjecture as to his guilt, but you may (582) draw all reasonable inferences from facts which are proved. If you can reconcile the evidence in this case with any reasonable hypothesis consistent with the innocence of the defendant, you should do so, and in that case your verdict will be not guilty. But, you may well ask, what is meant by the phrase, "a reasonable doubt?"

It does not mean any doubt whatsoever. Proof beyond a reasonable doubt is proof to a moral certainty and not necessarily proof to an absolute or mathematical certainty. By a reasonable doubt, as its name implies, is meant a doubt based on reason, not any whimsical or capricious conjecture. It is a doubt which is reasonable in view of all the evidence. If, therefore, after an impartial comparison and consideration of all the evidence you can truthfully say that you are not satisfied with the guilt of a defendant, then you have a reasonable doubt. But if, after such impartial comparison and consideration of all the evidence, you can candidly say that you have an abiding conviction of a defendant's guilt, such as you would be willing to act upon in the more weighty and important matters relating to your personal affairs, then you have no reasonable doubt.

You are instructed that in a large proportion of cases absolute certainty cannot be expected, and although the verdict must be the verdict of each individual juror and not a mere acquiescence in the conclusion (583) of your fellows, yet you should examine the question submitted with candor and with a proper regard and deference to the opinions of the other jurors.

I have already said to you that you are the sole judges of the (583)
facts. So, too, are you the sole judges of the credibility of the various witnesses who appear before you. In determining whether to believe the testimony of any witness and in weighing his testimony, you may consider his demeanor on the stand, his manner of testifying, whether he impresses you as having an accurate memory and recollection, whether he impresses you as a truth-telling individual, his apparent candor and fairness or lack of it, the interest which he has in the result of the trial of the case, if any, his bias and prejudice for or against the defendant, if any be shown, and his opportunity of knowing the facts and circumstances to which he has testified, and from all the facts and circumstances, it is your duty to give the proper weight to the testimony of each and every witness who has appeared before you.

You are further instructed that while the law makes the defendant a competent witness in this case, yet you have the right to take into consideration his situation and interest in the result of your verdict and all the circumstances which surround him, and give to his testimony such weight as in your judgment you deem it fairly entitled to. (584)

If you should find that any witness, whether that witness, or witnesses, be for the Government or the defense, has knowingly testified falsely as to any material fact about which he or she could not have been mistaken, you are at liberty, if you deem it wise to do so, to disregard the entire testimony or any part of the testimony of such witness, except where corroborated by other credible testimony.

There has been introduced into this case testimony to the effect that this defendant has been heretofore convicted of certain crimes. The Court states to you that the fact that he has been convicted of other crimes is not evidence of his guilt of the two charges which he is facing here today. The sole purpose of the introduction into evidence of prior convictions is for use by you in passing upon the credibility of that particular person.

There has been introduced testimony with reference to the good character or the good reputation of the defendant with reference to truth and veracity. Evidence of good character, like other types of testimony, should be considered by you in conjunction with all the other evidence before you. Under some circumstances, evidence of good character may alone be sufficient to create in your mind a reasonable doubt, although without it the other evidence would be convincing.

In courts, as well as in all our affairs of life, when we are (585)
called upon to determine disputed questions of fact, there are two kinds of evidence on which our conclusions may be based. One kind is called direct evidence and one kind is called indirect or circumstantial evidence. Direct evidence, for example, is evidence of a witness himself as to what he saw or heard as an eyewitness of the offense under inquiry. Indirect evidence is supplied by testimony as to facts and circumstances which tend to show that the offense under inquiry has been committed and by whom it was committed. In other words, circumstantial evidence is composed of proved facts which raise a logical inference as to the existence of the fact that is in issue in the particular case and which by experience has been found to be so associated with that fact that in the relation of cause and effect they lead to a satisfactory conclusion. A simple example of convincing circumstantial evidence is the track of an animal in the snow. If you see a rabbit's tracks, you know a rabbit has been there just as clearly as if you had actually seen the rabbit. Both kinds of evidence, direct and circumstantial, have been introduced in this case. Both kinds of evidence are equally entitled to consideration by the jury. Sometimes the jury may consider that indirect evidence is stronger than direct evidence.

There has been introduced before you certain testimony which (526)
may be characterized as admissions or confessions. The Court recognizes the validity of confessions and admissions if those admissions and confessions be freely and willingly made, because human experience shows that a confession or admission freely and willingly made is likely to be reliable. Ordinarily, a person does not admit that he has committed a crime unless that admission is true, but the situation is otherwise if you should find that an admission or confession is obtained by duress or coercion or as a result of an inducement or of a misrepresentation. If a confession or an admission is obtained by this means, it must be rejected and disregarded by the jury. A confession does not become involuntary because elicited by questions or made while the confessor is under arrest or in the absence of counsel, without warning or caution that the statement may be used against him.

I have already said to you that the two counts in this indictment charge this defendant, first, with rape and, secondly, with robbery. The defendant in this case is charged under Count 1 with the crime of rape.

Rape is defined in the District of Columbia Code as having (586)
carnal knowledge of a female forcibly and against her will. The words, "carnal knowledge" are synonymous and sexual intercourse. In plain language, rape may be defined as having sexual intercourse with a female forcibly and against her will. To establish the crime of rape, the Government (587)
must prove the two following essential elements:

(1) that the defendant had carnal knowledge of the complaining witness; and

(2) that the act was committed forcibly and against the will of the complaining witness.

As to the first element of carnal knowledge, there must have been penetration of the male organ into the female organ. The slighest penetration is sufficient. Emission is not a necessary element.

As to the second element, lack of consent, in order to justify a conviction on charge of rape, the female must have resisted the act to the utmost of her physical powers, unless her resistance was overcome by threats which put her in fear of death or grave bodily harm, or by these combined with some degree of physical force.

In order that the women's consent may prevent the act from being rape, her consent to the act of intercourse must be consciously given as the act of a rational, intelligent and reasoning human being. There is no consent in law if a women is unconscious and does not know what she is doing and a man takes advantage of her unconscious condition to have carnal knowledge of her. Under such circumstances, he is regarded as accomplishing the act by force, the force being the force necessary for penetration and (588)
without her consent.

The law does not permit a conviction on a charge of rape on the basis of the testimony of the complaining witness standing alone. Corroboration of her testimony is required, according to the rule of law prevailing in the District of Columbia. Such corroboration, however, need not be by eyewitnesses. Eyewitnesses can hardly ever be obtained in regard to such an offense as is charged in this case. Corroborating circumstances may be sufficient corroboration. If you should find the Government has proved both elements of rape as I have explained them, and beyond a reasonable doubt, then you may find the defendant guilty of rape as charged in Count 1.

The law provides that in any case of rape, the jury may add to (588) their verdict, if it be guilty, the words, quote, "with the death penalty," unquote. If a jury, without adding those words to their verdict, should return a verdict of guilty of rape, then the statute provides for punishment by imprisonment to be imposed upon the defendant by the Court.

The law further provides that, if deemed by the jury to be warranted by the evidence, the defendant may be found guilty of the commission of any lesser offense which is necessarily included in the offense with which he is charged in this indictment, namely rape. The defendant in this case, therefore, may be found guilty of rape as charged, with the death (589) penalty, or guilty of rape as charged without any reference to the death penalty, or guilty of assault with intent to commit rape, or not guilty, as the facts and the evidence may warrant. Whether or not there is any evidence in this case showing a state of facts as might bring the alleged offense of rape within the lesser and included offense, namely, assault with the intent to commit rape, is for you, the jury, to determine.

With respect to the lesser and included offense, namely, assault with the intent to commit rape, the Court instructs you that an assault is defined as an unlawful attempt or effort with force and violence to do injury to the person of another, coupled with the present apparent possibility of carrying out such an attempt. In order to make out a case of assault with the intent to commit rape, it is essential that the evidence should show beyond a reasonable doubt the following essential elements:

(1) an assault as I have just defined that term for you;

(2) an intent to have carnal knowledge of a female as I have previously defined that term; and

(3) a purpose to carry into effect this intent with force and against the consent of the female.

With reference to the element of intent, that is, contained in (590) the offense of assault with the intent to commit rape, you are again instructed that to do a thing on purpose is to do that which you intend to do. Intent is something which is never seen or heard. One cannot see into the mind of another human being to ascertain his intentions. They can only be gathered from his words and deeds, and in the administration of justice, men must seek and ascertain another man's intentions from his words and acts and from the testimony in the case.

If you find that the Government has failed to prove the defendant (590) guilty of rape but has proved the assault with the intent to commit rape, then you may find him guilty of assault with the intent to commit rape. If you find that the Government has failed to prove beyond a reasonable doubt the essential elements of rape and assault with the intent to commit rape, then you will find the defendant not guilty as to Count 1 of the indictment.

The second count in the indictment charges the offense known to the law as robbery, and this count is based on the following applicable provision of the D. C. Code:

> "Whoever by force or violence, whether against resistance, or by sudden or stealthy seizure or snatching, or by putting in fear, shall take from the person or immediate actual possession of another anything of value, is guilty of robbery."

In order for you to find this defendant guilty of robbery as (591) charged in Count 2, you must find the Government has proved beyond a reasonable doubt the following essential elements:

(1) that the defendant took something of value from the complainant;

(2) that he took it unlawfully and with intent to convert it to his own purpose.

(3) that he took it from the complainant's person or immediate actual possession; and

(4) that he took it by force of violence or by putting the complainant in fear.

As to the first element, that the defendant took something of value, the value of the thing taken is of no consequence.

As to the second element, that he took the property unlawfully and with intent to convert it permanently to his own use, intent ordinarily cannot be proved directly, because there is no way of fathoming and scrutinizing the operations of the human mind. But intent may be deduced from circumstances, from things done and from things said. A person is presumed to intend the natural and probable consequences of his act.

As to the third element, that the defendant took the property from the complainant's person or immediate actual possession, you have heard (592) the evidence. It will be for you to determine that element, in fact, as it is as to all other elements.

As to the fourth element, that the defendant took the property (592)
by force or violence, by putting the complainant in fear, you have heard the evidence and you will determine that element, as others, from the evidence in the case.

If you find the Government has proved beyond a reasonable doubt all the elements I have enumerated, then you may find the defendant guilty as to Count 2. If you find that the Government has failed to prove any one or more of the essential enumerated items or elements of the crime of robbery, then you must find the defendant not guilty as to Count 2.

This matter, ladies and gentlemen, is, of course, important to all concerned. When you go to the jury room, you will consider the case deliberately and carefully, dispassionately and objectively, without bias or prejudice for or against the defendant, without emotion and without sympathy, and in light of the instructions on the law which I have given you, bearing in mind that you are the sole judges of the facts, and that you are obligated to follow my instructions only as to the law.

Has either counsel anything to add?

MR. TYLER: No, sir. I can think of nothing else at this time. (593)

THE COURT: Has the Government anything?

MR. McLAUGHLIN: No, Your Honor.

MR. TYLER: May I, Your Honor --

(At the bench:)

MR. TYLER: Your Honor, I am quite sure you did make the statement, but I just went to be sure --

THE COURT: All right, sir.

MR. TYLER: -- and that was as to whether or not the jury may find the defendant guilty of one count and not guilty of the other.

THE COURT: I am going to do that.

(In open court:)

THE COURT: There being nothing further from either counsel, the Court will state to you that the possible verdicts as to Count 1 are: guilty of rape, with the death penalty; guilty of rape; guilty of assault with the intent to commit rape; or not guilty. As to Count 2, your verdict will be guilty of robbery or not guilty. You may find the defendant guilty of both counts, not guilty of both counts, or a combination of guilty as to one and not guilty as to the other.

Is there anything further from either counsel? (593)

MR. TYLER: No, sir, I have nothing.

MR. McLAUGHLIN: No, Your Honor.

THE COURT: There being nothing further from either counsel, (594) ladies and gentlemen, the Court will ask the two alternate jurors to please keep their seats when the twelve other jurors retire. You will be excused as soon as they do retire.

As to the twelve remaining jurors, it now becomes your duty to retire to the jury room, select your foreman, consider and decide the case. I have stated to you what your verdicts may be in this case. You, of course, realize that your verdict must be unanimous as to each count. You may now retire to consider and decide the case.

The two alternate jurors, first, I will ask you, have you anything in the jury room?

(The alternate jurors responded in the affirmative.)

THE COURT: You may go and get it before the jury retires, please.

Mr. Marshal, is the jury room clear?

(The marshal answers in the affirmative.)

THE COURT: All right, ladies and gentlemen, you may now retire.

(Whereupon, at 4:15 p.m., the jury retired for deliberations.)

(At 9:00 p.m., the jury returned to the courtroom and the following proceedings occurred in open court:)

THE CLERK: Mr. Foreman, has the jury agreed upon a verdict? (595)

THE FOREMAN: We have.

THE CLERK: What say you as to the defendant Charles C. Coleman on Count 1 of the indictment?

THE FOREMAN: Count 1 of the indictment, guilty of rape as charged.

THE CLERK: And on Count 2 of the indictment?

THE FOREMAN: Guilty of murder as charged — of robbery, I am sorry.

THE CLERK: Ladies and gentlemen of the jury, your foreman says you find the defendant Charles C. Coleman guilty on Count 1 of the indictment and guilty on Count 2 of the indictment, and that is your verdict, so say you each and all?

(The jurors respond affirmatively.)

MR. TYLER: May the jury be polled, Your Honor?

THE COURT: Ladies and gentlemen, when your individual name is called, you will state guilty or not guilty as to the respective counts, please.

THE CLERK: Your Honor, the jury has been polled. (597)

(600)

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

FILED IN OPEN COURT
JAN 30 1956
HARRY M. HULL, Clerk

Holding a Criminal Term

Grand Jury Impanelled September 29, 1955, Sworn in on October 4, 1955

The United States of America	:	Criminal No. 124-56
v.	:	Grand Jury No. Orig.
Charles C. Coleman	:	Rape
	:	Robbery
	:	(22 D.C.C. 2801, 2901)

The Grand Jury charges:

On or about November 9, 1955, within the District of Columbia, Charles C. Coleman had carnal knowledge of a female named Mary Allen Hood forcibly and against her will.

SECOND COUNT:

On or about November 9, 1955, within the District of Columbia, Charles C. Coleman, by force and violence and against resistance and by sudden and stealthy seizure and snatching and by putting in fear, stole and took from the person and from the immediate actual possession of Mary Allen Hood property of Mary Allen Hood, of the value of about $9.00, consisting of the following: one billfold, of the value of $5.00 and $4.00 in money.

/s/ Leo A. Rover,
Attorney of the United States in
and for the District of Columbia

A TRUE BILL:

/s/ Alfred G. White
Foreman.

(604)

FILED
FEB 3 1956
HARRY M. HULL, Clerk

PLEA OF DEFENDANT

On this 3rd day of February, 1956, the defendant Charles C. Coleman, appearing in proper person and by his attorney Edward J. Skeens, being arraigned in open Court upon the indictment, the substance of the charge being stated to him, pleads NOT GUILTY thereto.

The defendant is remanded to the District of Columbia Jail.

By direction of

BURNITA SHELTON MATTHEWS

Presiding Judge

Criminal Court No. One

FILED (605)
FEB 21 1956
HARRY M. HULL, Clerk

On this 17th day of February, 1956, came the attorney of the United States, the defendant in proper person and by his attorney, Edward J. Skeens, Esquire; whereupon the defendant's motion to enjoin the United States from requesting the death penalty is by the Court denied.

The defendant is remanded to the District of Columbia Jail.

By direction of
Edward M. Curran
Presiding Judge
Criminal Court No. 4

FILED (609)
JUN 19 1956
HARRY M. HULL, Clerk

On this 19th day of June 1956 came again the parties aforesaid in manner as aforesaid and the same jury as aforesaid in this cause the hearing of which was respited yesterday; whereupon after hearing further of the evidence, the arguments of counsel and the instructions of the Court, the jury retires to consider their verdict; and thereupon the said jury returns into Court and upon their oath say that they find the defendant guilty as indicted; and thereupon the jury is polled and all concur in the finding.

The case is referred to the Probation Officer of the Court and the defendant is remanded to the District of Columbia Jail.

By direction of
RICHMOND B. KEECH
Presiding Judge
Criminal Court No. 3

FILED (610)
JUN 22 1956
HARRY M. HULL, Clerk

MOTION FOR JUDGMENT OF ACQUITTAL

NOTWITHSTANDING THE VERDICT AND/OR NEW TRIAL

Comes now the defendant, by and through his attorneys, and move this Honorable Court to enter a judgment of acquittal, notwithstanding the verdict and/or a new trial and as reasons therefore states as follows:

1. The verdict of guilty as to count one of the indictment, to wit: the rape, was contrary to the weight of evidence.

2. That the verdict of guilty as to count one of the indictment, (610) to wit: the rape, was based on speculation in that it was never ascertained by the members of the Metropolitan Police Department whether in fact a rape had been committed.

3. And for such other and further reasons as may be adduced in oral argument.

/s/ Carroll F. Tyler, Jr
Carroll F. Tyler, Jr.
William Beasley Harris

FILED (611)
JUN 29 1956
HARRY M. HULL, Clerk

On this 29th day of June, 1956, came the attorney of the United States; the defendant in proper person and by his attorney, William B. Harris, Esquire; whereupon the motion of the defendant for a judgment of acquittal notwithstanding the verdict and/or new trial, coming on to be heard, after argument by counsel, is by the Court denied.

By direction of
RICHMOND B. KEECH
Presiding Judge
Criminal Court No. 3

FILED (612)
JUL 16 1956
HARRY M. HULL, Clerk

On this 13th day of July, 1956 came the attorney for the government and the defendant appeared in person and[1] by counsel, Carroll F. Tyler, Esquire;

It Is Adjudged that the defendant has been convicted upon his plea of[2] not guilty and a verdict of guilty of the offense of

Rape and Robbery

and charged[3]

and the court having asked the defendant whether he has anything to say why judgment should not be pronounced, and no sufficient cause to the contrary being shown or appearing to the Court,

It Is Adjudged that the defendant is guilty as charged and convicted.

It Is Adjudged that the defendant is hereby committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of[4]

Eight (8) years to Twenty-four (24) years on Count One;
Three (3) years to Nine (9) years on Count Two to take effect at the expiration of the sentence imposed on Count One.

[illegible]

It Is Ordered that the Clerk deliver a certified copy of this judgment and commitment to the United States Marshal or other qualified officer and that the copy serve as the commitment of the defendant.

/s/ R. B. Keech,
United States District Judge.

BRIEF FOR APPELLEE

United States Court of Appeals
For the District of Columbia Circuit

No. 13,693

CHARLES C. COLEMAN, *Appellant*,

v.

UNITED STATES OF AMERICA, *Appellee*.

Appeal from the United States District Court
For the District of Columbia

United States Court of Appeals
For the
District of Columbia Circuit
FILED
JUN - 4 1953
Joseph W. Stewart
CLERK

OLIVER GASCH,
United States Attorney.

LEWIS CARROLL,
ARTHUR J. MCLAUGHLIN,
NATHAN J. PAULSON,
Assistant United States Attorneys.

No. 13,693

QUESTIONS PRESENTED

Where the proven facts disclose that the complaining witness was carnally assaulted and robbed; that prior to, during and subsequent to the assault the assailant carried on a conversation; that the complaining witness saw a silhouette and some features of her assailant; that there was medical testimony of a carnal abuse; that there was identification of the appellant as the attacker in a police lineup; that appellant admitted the robbery but denied the attack; that evidence of semen and blood were found on the complaining witness's undergarments; that confrontation was made immediately after identification; in the opinion of the appellee, the following questions are presented:

1. Did the trial judge err in refusing to grant a motion for judgment of acquittal?

2. Did the proven facts constitute sufficient corroboration of the prosecutrix' story?

3. Did the trial judge commit error in not instructing the jury to disregard serology testimony where it was not admitted into evidence and where no request for such instruction was made?

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United States Court of Appeals
For the District of Columbia Circuit

No. 13,693

CHARLES C. COLEMAN, *Appellant*,

v.

UNITED STATES OF AMERICA, *Appellee*.

Appeal from the United States District Court
For the District of Columbia

BRIEF FOR APPELLEE

COUNTERSTATEMENT OF THE CASE

On January 30, 1956 there was filed in the District Court for the District of Columbia a two-count indictment charging appellant with rape and robbery in violation of Title 22, District of Columbia Code, Section 2801 and 2901 (J.A. 190). On February 3, 1956 appellant was arraigned and entered a plea of not guilty (J.A. 190). On June 19, 1956, a jury found appellant guilty as indicted on both counts (J.A. 191). A motion for judgment of acquittal, non obstante veredicto, and or a new trial was denied on June 29, 1956 (J.A. 192). On July 13, 1956 appellant was sentenced to a term of imprisonment for a period of eight years to twenty-four years on Count I (rape) and three

to nine years on Count II (robbery). The latter sentence to take effect at the expiration of the sentence imposed on Count I (J.A. 192).

On November 9, 1955 between the hours of 10:20 and 10:30 P.M., Miss Mary Ellen Hood parked her car in the garage of a building known as the Hilltop House located in the District of Columbia (J.A. 2-3). As she turned to walk towards the exit, two hands came around her throat from the back, and as the grip was tightened, a voice said, "If you scream, I will kill you" (J.A. 4). She began to scream, but was choked to the point of unconsciousness. When she revived, she found she was in a dark place down on her knees facing the wall. The voice said, "Kneel down and face the wall" (J.A. 4). While she was in that position, the voice said, "Close your eyes. How much money do you have. I will shoot you right between the eyes." She testified that she believed him (J.A. 5). While attempting to give her assailant her wallet, she was asked how much was in it and why wasn't there more than the four dollars. After giving him an explanation, he "kind of leaned over and said he was going to assault" her (J.A. 5). He used phraseology with which she was unfamiliar but with which she had seen on sidewalks. She begged him to let her go, but he replied, "No, I am going to get me some." He told her that he had already killed one woman, and didn't mind killing her. While he shoved her against something on the floor, she managed to grab his hair and felt the texture of it. She again lost consciousness and, as she recovered, she saw his silhouette and heard him say, "What did I tell you" (J.A. 7). Upon cross-examination, (J.A. 55) she stated that she had a recollection of his face and, "I remember those high nostrils, that protruding mouth, the forehead all as a silhouette. She was again rendered unconscious, and upon recovering, she heard the voice repeat, "What did I tell you. I will shoot you right between the eyes. What did I tell you. I got to dust off my pants. * * * You wait and don't you tell anybody about this. You wait, and I will go." (J.A. 7). After what she thought was a safe time and not hearing any noise,

she discovered that she was under the stairwell in the garage. She then proceeded home trying to catch her breath and recover her voice. She examined her body and found that she was bleeding very badly from the genital portions (J.A. 8). She called her doctor and the police (J.A. 10). During the night, she bled a great deal; and was in bad pain. When she was examined the next morning by the doctor, her throat was still swollen with big black finger marks extending around her neck. Her head and neck were stiff; her upper arms very sore, and her back was black and blue from the shoulders to the hips. Because of the extent of her injuries, a surgeon advised immediate hospitalization and operative procedures. She remained in the hospital for nine days. Her testimony concerning the attack reflected a continuous conversation with her assailant. She testified that prior to this event, she was a virgin. She gave a report to the police upon the night of the event and filled in more details the following morning in her doctor's office. She did not report the attack as rape that night, because she was afraid it would have an adverse effect upon her mother who was ill (R. 95).

While she was recuperating at the country place of her doctor, she was brought back to the District of Columbia in order to view a lineup. There were five men at police headquarters who were asked to step forward one at a time and read portions of the reported statements made by her assailant at the time of her attack. She identified appellant as the person who committed the assault. Immediately after the lineup, she confronted him and he denied he was the person involved. A short time later, she saw him again in the company of her doctor and two policemen (J.A. 13), at which time he admitted that he was the man who had taken her money. He stated that he had been hiding in the wash-room of the garage and described her car, the make and model of which had never been told to him. He described what she had done and said that he had kept his word not to harm her; that he was sorry and that he wanted to shake hands and apologize (J.A. 14). He admitted the robbery but still denied the

rape. Her clothes were offered into evidence. Expert testimony revealed that there was spermatozoa and blood upon it (J.A. 84-86). Dr. Purse testified that when she examined Miss Hood she found that the latter's hyman was definitely not intact, and that there was a tear in it. She stated that in her opinion the vagina had been penetrated by a penis. She stated that on the basis of her medical knowledge, it would have been possible for a penis to have attained a state of erection sufficient to have been able to insert itself and penetrate five inches. She corroborated the admissions made by appellant at police headquarters at the time of the lineup.

Dr. Aaron H. Burger testified on direct examination that the injuries sustained by Miss Hood could be caused by a penis (J.A. 31). Upon cross-examination, he stated that, "An object such as a penis when held in a certain direction and is direction propelled or motivated by the holder of it, can readily produce the injury, the direction of injury which I have recited" (J.A. 51-52). In answer to a question as to whether the average male penis is capable of sufficient erection for the type of penetration disclosed by the injury, he replied that he did not consider it likely that such damage could be performed (J.A. 52).

Evidence was introduced by members of the police department that appellant's finger prints were found at the scene of the crime. Appellant's counsel conceded at one point that the officer testifying was an expert (J.A. 70, 78). Charles A. Mackie testified that he was a member of the Metropolitan Police Department assigned to the Sex Squad and conducted the lineup in question. He corroborated the complaining witness's testimony as to her identification and stated that Miss Hood had said that the appellant had the same facial features and the same voice as her assailant (J.A. 94). He testified that appellant, in the presence of himself, Detective Yuter, Dr. Purse and Miss Hood, said that: "he remembered Miss Hood; he was sorry that the thing happened; he remembered the night he was walking near this kind of building at 15th and Euclid; that he saw the complainant drive into an alley

with a studebaker automobile; that she turned into a garage under the building; that he followed her and grabbed her from behind when she got out of the car, dragging her into the recessed area; that he took her billfold saying that he needed money to pay his room rent; that he had conversation with her regarding her money, her identification, her billfold and her shoes; that he left the garage and went to his father's home and that he needed six more dollars to pay his rent; and that he did not remember anything about molesting the complainant sexually (J.A. 95, 96).

The admission was corroborated by James K. McCarthy, a member of the police department and also by Officers Yuter and Mackie. All these officers testified that they never had mentioned the type of automobile to the appellant, nor that she had been out to dinner prior to parking her car (J.A. 96).

The appellant introduced testimony by a member of the police department that the description that he had received of the person who allegedly committed the crime had a fresh scar over one of his eyes.[1] In fact, Miss Hood gave the following description to Officer Yuter, "broad nose, brown propped hair, almost certain of a mustache, taller than she, and dark skin." (R. 326). Upon cross-examination, Officer Yuter testified that when Miss Hood identified appellant she stated, "His voice is identical and his features are just like the man who attacked her." (R. 327).

Appellant then testified in his own behalf and denied attacking or molesting the complaining witness. He stated that when he had been arrested and was told about the robbery and rape, his reply was that he was a numbers writer and that he had no scar on his head, which apparently the officers were seeking. He testified that when confronted by the complaining witness, he denied either assaulting or robbing her. He also attempted to establish an alibi and denied the admission claimed to have been

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1 Miss Hood testified that at no time had she ever given a description mentioning a scar. This was confirmed by one of the police officers (R. 161-162-163, 313).

made by him to the doctor, the policeman and the complaining witness. On direct examination, he stated that he had reason to be in the rear of the garage of the Hilltop House, and that he was in the garage on the morning of the day in question (J.A. 119), that reason being that this was in the territory where he wrote numbers. Upon cross-examination he admitted that he had been previously convicted of grand larceny in 1946 and robbery in 1947. He stated that he was familiar with the place where the occurrence took place (J.A. 151), and that he frequented that place five times a week. Although he claimed that he at no time admitted the assault or the robbery, appellant testified that he was beaten by the police in order to induce a confession.

His "alibi" witness, Bertha T. Mackey, testified that she was a good friend of appellant's and saw him approximately twice a week, but that during the week of November 9, she did not know whether she saw him. Appellant's landlord testified that appellant had paid his rent in advance.

In rebuttal the Government adduced testimony that appellant had never been either physically or mentally coerced. A motion for judgment of acquittal was then renewed and denied.

STATUTES INVOLVED

District of Columbia Code, Title 22, § 2801 provides:

> *Definition and penalty.*—Whoever has carnal knowledge of a female forcibly and against her will, or carnally knows and abuses a female child under sixteen years of age, shall be imprisoned for not more than thirty years: *Provided,* That in any case of rape the jury may add to their verdict, if it be guilty, the words "with the death penalty," in which case the punishment shall be death by electrocution: *Provided further,* That if the jury fail to agree as to the punishment the verdict of guilty shall be received and the punishment shall be imprisonment as provided in this section.

District of Columbia Code, Title 22, § 2901 provides:

> *Robbery.*—Whoever by force or violence, whether against resistance or by sudden or stealthy seizure or snatching, or by putting in fear, shall take from the person or immediate actual possession of another anything of value, is guilty of robbery, and any person convicted thereof shall suffer imprisonment for not less than six months nor more than fifteen years.

SUMMARY OF ARGUMENT

The evidence was sufficient to go to the jury and support the verdict. The trial judge concluded that from the facts and testimony a reasonable mind could find that the evidence excluded every reasonable hypothesis but that of guilt and was therefore a question for the jury to decide. There was sufficient corroboration by evidence of the prosecutrix' story to warrant the jury's verdict of guilty.

Appellant received a fair trial. The qualifications of the fingerprint expert were conceded. The exhibits were properly offered and introduced into evidence. The trial judge committed no error in asking the expert a few questions as to the amount of fingerprints he had examined over the past nine years.

The court's instructions to the jury were complete and clear. No requests for additions or objections to omissions were made. Appellant cannot now raise the point that the trial judge omitted to instruct the jury to disregard certain testimony where the exhibit pertaining thereto was not permitted in evidence. Rule 30, Federal Rules of Criminal Procedure.

ARGUMENT

I

THE EVIDENCE WAS SUFFICIENT TO GO TO THE JURY AND SUPPORT THE VERDICT

Appellant contends that the trial court erred by not granting his motion for judgment of acquittal at the close of the Government's case. However, appellant by introducing evidence in his own behalf waived the right to insist upon

his motion. *Ladrey* v. *United States,* 81 U.S. App. D.C. 127, 155 F.2d 417 (1946); *Hall* v. *United States,* 83 U.S. App. D.C. 166, 169, 168 F.2d 161 (1948). Thus, this case is to be judged on the entire record.

The trial court committed no error thereafter in denying the renewed motion when all the proven facts in issue were before the court.

This Court set forth the test under which motions for judgment of acquittal should be considered in *Curley* v. *United States,* 81 U.S. App. D.C. 389, 160 F.2d 229 (1947), *cert. denied,* 331 U.S. 187. In that case the Court stated:

> * * * The true rule, therefore, is that a trial judge in passing upon a motion for directed verdict of acquittal, must determine whether upon the evidence, giving full play to the right of the jury to determine credibility, weigh, and draw justifiable inferences of fact, a reasonable mind might fairly conclude guilt beyond a reasonable doubt. If he concludes that upon the evidence there must be such a doubt in a reasonable mind, he must grant the motion; or, to state it another way, if there is no evidence upon which a reasonable mind might fairly conclude guilt beyond a reasonable doubt, the motion must be granted. *If he concludes that either of the two results, a reasonable doubt or no reasonable doubt, is fairly possible, he must let the jury decide the matter.* * * * *But if a reasonable mind might fairly have a reasonable doubt or might not fairly have one, the case is for the jury, and the decision is for the jurors to make.* (Emphasis supplied).

This rule was reaffirmed in *Remmer* v. *United States,* 205 F.2d 277 (9th Cir. 1953) where the Court stated (p. 287):

> * * * The test to be applied on a motion of acquittal in such a case, however, is not whether in the trial court's opinion the evidence fails to exclude every hypothesis of guilt, but rather whether as a matter of law reasonable minds as triers of fact, must be in agreement that reasonable hypothesis other than guilt could be drawn from the evidence. Stoppelli v. United States, 9th Cir. 1950, 183 F.2d 391, cert. denied, 340 U.S. 864, 71 S. Ct. 88, 95 L. Ed. 631. If reasonable minds could find that the evidence excludes every reasonable hypothesis but that of guilt, the question is

> one of fact and must be submitted to the jury. Curley v. United States, 1947, 81 U.S. App. D.C. 389, 160 F.2d 229, cert. denied, 331 U.S. 837, 67 S. Ct. 1511, 91 L. Ed. 1850; Stoppelli v. United States, supra."

It has been well settled in this jurisdiction that corroboration of the testimony of a complaining witness who has been carnally abused is sufficient to justify a trial judge to submit the issue to a jury. The courts have long recognized that eye witnesses to such heinous crimes are difficult, if not practically impossible, to find. Consequently, cases involving this type of felony may be proved by the introduction of evidence circumstantial in character, to corroborate the testimony of the complaining witness. *Kidwell* v. *United States,* 38 App. D.C. 566 (1912); *Ewing* v. *United States,* 77 U.S. App. D.C. 14, 135 F.2d 633 (1942), *cert. denied* 318 U.S. 803; *McGuinn* v. *United States,* 89 U.S. App. D.C. 197, 191 F.2d 477; *Walker* v. *United States,* 96 U.S. App. D.C. 148, 223 F.2d 613.

In the *Ewing* case, *supra,* this Court stated:

> "Appellant's argument in terms requests that we 'inquire again into the whole theory of the necessity of corroboration' and, in effect reverse the rule stated in the Kidwell case, substituting one which requires 'direct corroboration of the prosecutrix'. If by 'direct corroboration' is meant the testimony of an eye witness, the result would be in most cases that conviction could not be had except upon the defendant's confession. If it means less than that it is hard to see how it could relate to anything other than circumstantial evidence which supports the prosecutrix' story. • • • Hence corroboration, in the sense that there must be circumstances which tend to support the prosecutrix' story is required."
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> • • • • •
>
> "But to safeguard the defendant by requiring corroboration in this sense is one thing. To throw around him a wall of immunity requiring the testimony of an eye witness or 'direct evidence', which is more than circumstantial, in support of the prosecutrix' story, is another. We are satisfied that the rule stated in the

> Kidwell decision is one which should not be overthrown." (Footnote omitted.)
>
> • • • • •
>
> • • • *the entire evidence tending to appellant's advantage did not deprive the circumstances proved in support of the girl's story of corroborative effect.* It merely created conflict with them. Within the prevailing rule, stated in Kidwell v. United States, there was sufficient corroboration. (Emphasis supplied.)

Thus the rule is not, as appellant would prefer, that there be corroboration of the actual rape; nor is it required that direct evidence be the corroboration. All that is required is that there be corroboration by evidence as to the circumstances surrounding the parties at the time. *Kelly* v. *United States,* 90 U.S. App. D.C. 125 at page 127, 194 F.2d 150 (1952), citing *Kidwell* and *Ewing,* supra. Such corroboration may be shown by circumstantial evidence.

Appellant's contention that the Government failed to produce sufficient evidence to warrant sending the instant case to the jury is without merit. The proven facts disclose that the complaining witness was both carnally assaulted and robbed in the District of Columbia; that prior to, during and after the attack the assailant spoke at some length to her; that she saw a silhouette of her attacker from which she described certain salient features; that she had a vivid recollection of his voice which was implanted in her memory; that a line up conducted at police headquarters she positively identified appellant as her assailant; that appellant admitted that he had robbed her although he denied the sex crime; that medical evidence supported the charge of a sex crime; that appellant's fingerprints were found on the scene; that evidence of semen and blood were found on her undergarments; that her doctor and several members of the police department corroborated the admissions made by appellant and particularly the brand name of the car and that she had just been to dinner when no one but the assailant could have known these facts; that complaint was made as promptly as possible under

the circumstances and that confrontation was made immediately after identification. Although each case of this type stands on its facts, the evidence and testimony offered in support of appellant's defense falls squarely within the language of this Court in the *Ewing* case, *supra*, as not depriving the prosecutrix' story of corroborative effect but merely created conflict which the triers of the fact must resolve. The jury chose to believe the Government's witnesses. And there is no reason to disturb the verdict.

II

APPELLANT RECEIVED A FAIR TRIAL

A. The Trial Judge Committed No Error In Permitting The Fingerprint Expert To Testify.

Officer Singleton was examined extensively on voir dire as to his qualifications as a fingerprint expert (J.A. 64-70). At the conclusion thereof, appellant conceded that he was an expert (J.A. 70). This concession was again made by appellant at the time objection was made as to his qualifications as a chemist (J.A. 78). In the posture of the case, appellant cannot now claim that the trial judge committed error in permitting the expert to testify.

B. The Fingerprints Exhibits Were Properly Offered And Introduced Into Evidence. The Serology Exhibit Was Excluded.

Subsequent to the concession as to the fingerprint expert's qualifications, the Government offered for identification the enlarged fingerprints (later Government's exhibit 14 in evidence) (J.A. 218). The following colloquy took place:

> Mr. McLaughlin: If Your Honor please, at this time, Your Honor, I am going to ask this witness to explain as to why he says that these prints are the same. I have some photographs here, and I wonder if I could hand them to the jury so that they could follow the police officer as he testifies.
>
> Mr. Tyler: Are all the photographs the same?
>
> Mr. McLaughlin: Identical.
>
> The Court: Is that a fact?

> The Witness: Yes. There is only one thing. There are two photographs here and there are two sets of copies. One is with lines and one is without lines.
>
> The Court: Mr. McLaughlin, you and all the counsel get together and make sure that we all are talking about the same ones, please.

Thereafter, the direct examination continued. No objection to this procedure was made. The testimony that followed was narratively descriptive (J.A. 77, 78).

Appellant argues that the court never announced that Exhibit 14 was admitted into evidence (Br. p. 10). The record discloses that the Government first formally offered all the exhibits into evidence (R. 340, 341). Then each exhibit was discussed singly. When the exhibit in question was reached the prosecutor stated (J.A. 105):

> "Government exhibit 14 was the fingerprint pictures of the two known and unknown fingerprints. Government exhibit 15 was the blood exhibit the scrapings Officer Singleton said was blood. I believe that is all."
>
> The Court: Has counsel anything to say to any of these exhibits?[2]

At that point a discussion was had regarding the blood exhibit. No objection was made to Exhibit 14 which was reported along with others as being admitted into evidence while Exhibit 15 was excluded.

Exhibit 15, the serology exhibit, was never before the jury. After a voir dire examination was had as to the officer's qualifications to testify upon serology, the officer was found to be competent. Upon cross-examination he testified that there was an indication of blood found on the scrapings from the floor. There was no testimony as to types nor was any connection to appellant attempted to be made. It was offered solely to show that there was more blood than would have come from a wound incurred by a tack. Since this was the limited purpose for which it was offered, the court refused to accept it. No prejudice resulted to appellant.

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[2] Referring to all the exhibits offered into evidence.

Appellant (Br. p. 10) apparently contends that the police did not produce nor attempt to "tie in" unknown people with the instant crime because other fingerprints were found on the scene. An adequate explanation as to the unknown fingerprints was given by the police. The prints were not clear nor did they have the quality necessary for definitive value (J.A. 82).

C. The Trial Judge Committed No Error In Questioning The Expert As To His Experience.

The Government contends that the qualifications of an expert witness lie within the province of the trial judge. In the instant case, in order to be assured that the witness was a qualified expert in his field, the court asked three questions regarding the average number of prints examined over a period of nine years (J.A. 69). Appellant's contention is clearly without merit.

D. The Trial Court's Instructions Were Complete And Clear. Appellant, Not Having Objected Nor Requested Additions Thereto, Cannot Now Claim Error.

The instructions to the jury were complete and clear. Appellant's sole contention regarding the charge is that the court should have advised the jury to disregard the testimony concerning the serology. This contention lacks merit. At the close of the charge counsel was asked whether they had anything further to request. A negative answer was given.

As stated in appellee's brief (subdivision c, supra), the introduction of Exhibit 15 into evidence was refused. No request was made at that time by counsel for an admonition to the jury regarding the testimony pertaining thereto.

Appellant was apparently satisfied with the trial court's charge to the jury. He failed to comply with Rule 30, Federal Rules of Criminal Procedure which provides in pertinent part:

> * * * No party may assign as error any portion of the charge or omission therefrom unless he objects thereto before the jury retires to consider its verdict,

> stating distinctly the matter to which he objects and the grounds for his objection.

It is well settled that a failure to comply with the Rule constitutes a bar to the claim that the court below committed error. See *Villoroman* v. *United States,* 87 U.S. App. D.C. 240, 242, 184 F.2d 261, 262 (1950). In *United States* v. *Furlong,* 194 F.2d 1 (7th Cir. 1952), the court in discussing the rule stated:

> It is a salutary rule, for its purpose is to give the judge an opportunity to make any correction which he thinks is proper and, thus, to minimize the possibility of error. Hower v. Roberts, 8th Cir., 153 F.2d 726. It is intended to prevent a litigant from taking advantage after verdict, of the giving of an erroneous instruction to which he failed to call attention in time to afford the court an opportunity to correct it. Palmer v. Miller, 8 Cir. 145 F.2d 926. Unless the objection is made before a verdict a reviewing court is powerless to consider it; it cannot be raised for the first time on motion or on appeal. [Citations omitted.]

This was not a fundamental instruction. It had special applicability to the facts of this case. It has been held that under those circumstances the observance of Rule 30 has a particular significance. *Benatar* v. *United States,* 209 F.2d 734, 744 (9th Cir. 1954). Appellant having failed to request an instruction on this point, he cannot now claim error.

Appellant recognizes that the matter of the alleged police description is essentially a matter dealing with credibility and ordinarily would be within the province of the jury. The issue created by appellant in this regard does not go to the core of this case. The testimony was clear that the prosecutrix and the policeman who took the description never mentioned or heard of the so-called "scar". Their denials were clear and unshaken. Assuming an error was made in the teletype description, this in no way affected appellant's rights on the trial. If the error had been adhered to he may never have been apprehended. This however occurred prior to his arrest and has no bearing on

the basic issues of guilt or innocence. The jury chose to believe the Government's witness.

CONCLUSION

WHEREFORE, it is respectfully submitted that the judgment of the District Court be affirmed.

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